Also, a bill (H. R. 10499) granting an increase of pension to James H. Lile; to the Committee on Pensions.

Also, a bill (H. R. 10500) granting an increase of pension to King A. Bowman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10501) granting an increase of pension to Marion F. Segars; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10502) granting an increase of pension to Jeremiah M. McPherson; to the Committee on Invalid Pensions.

By Mr. WOODS of Iowa: A bill (H. R. 10503) for the relief of Jacob M. Cooper; to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ANSBERRY: Petition of C. J. Cornin, of Bryan, Ohio, favoring a reduction in the duty on raw and refined sugars; to the Committee on Ways and Means.

By Mr. BARCHFELD: Papers in re bill granting an increase of pension to Henry Cump, late of Company F, Forty-sixth Regiment Pennsylvania Volunteer Infantry; to the Committee on Invalid Pensions.

By Mr. BURKE of Wisconsin: Papers accompanying House bill 6156, granting an increase of pension to Matthew L. Johnson; to the Committee on Invalid Pensions.

By Mr. BYRNS of Tennessee: Resolutions of Trades Council of Nashville, Tenn., relative to the arrest, etc., of J. J. McNamara at Indianapolis; to the Committee on Labor.

Also, resolutions of International Moulders Union, of Nashville, Tenn., relative to the arrest, etc., of J. J. McNamara at Indianapolis; to the Committee on Labor.

By Mr. CARY: Communications from citizens of Milwaukee, Wis., urging the reduction of the tariff on sugar; to the Committee on Ways and Means.

Also, communication from Yahr & Lange Drug Co., Milwaukee, Wis., protesting against H. R. 8887, providing for stamp tax on proprietary medicines; to the Committee on Ways and Means.

By Mr. CLARK of Florida: Petition of L. H. Tempe and numerous other citizens of Sanford, Fla., demanding the withdrawal of American troops from the Mexican border; to the Committee on Foreign Affairs.

Also, petition of W. A. King and numerous citizens of Sanford, Fla., demanding a rigid investigation into the manner of the removal of John J. McNamara from the State of Indiana to the State of California for trial; to the Committee on the Judiciary.

By Mr. DANFORTH: Petition of 93 residents of Rochester, N. Y., favoring the enactment of a law establishing a national department of health; to the Committee on Interstate and Foreign Commerce.

By Mr. DYER: Petition of a citizen of St. Louis, Mo., asking for a reduction in the duty on raw and refined sugars; to the Committee on Ways and Means.

By Mr. FORNES: Resolutions of the Manufacturers' Association of New York City, that various schedules of tariff law should be considered and opportunity given all interests affected to be heard before final action; to the Committee on Ways and Means.

Also, petition of Shoe Manufacturers' Association of New York City, against free-list bill or placing leather on the free list; to the Committee on Ways and Means.

Also, petition of Manufacturers' Association of New York City, in relation to establishing a United States court of patent appeals; to the Committee on the Judiciary.

By Mr. FRENCH: Resolutions of citizens of Twin Falls, Idaho; to the Committee on Rules.

By Mr. FULLER: Petition of Glass Bottle Blowers' Association, Branch 3, of Streator, Ill., favoring the Berger resolution; to the Committee on the Judiciary.

By Mr. GARDNER of Massachusetts: Resolution from Central Socialist Club, of Haverhill, Mass., protesting against the method of procedure in the arrest of J. J. McNamara and J. W. McNamara, charged with conspiracy in connection with alleged dynamiting of Los Angeles Times Building; to the Committee on Labor.

By Mr. GOODWIN of Arkansas: Petition of citizens of Patmos, Ark., protesting against the kidnaping of J. J. McNamara; to the Committee on Labor.

By Mr. HAMILTON of West Virginia: Petition of C. A. Millery Grocery Co., of Martinsburg, W. Va., asking for reduction in the duty on raw and refined sugars; to the Committee on Ways and Means.

By Mr. KAHN: Papers to accompany House bill 8112, for the relief of Wilmerding-Loewe Co.; to the Committee on Claims.

By Mr. KNOWLAND: Petition signed by S. P. Dobbins and other residents of Vacaville, Cal., urging a reduction of the duty on raw and refined sugars; to the Committee on Ways and Means.

Also, resolutions adopted by the board of trustees of the Chamber of Commerce of San Francisco, Cal., favoring the judicial settlement of international disputes; to the Committee on Foreign Affairs.

Also, resolutions adopted by the board of trustees of the Chamber of Commerce of San Francisco, Cal., requesting the transfer of the sloop of war *Portsmouth* to San Francisco; to the Committee on Naval Affairs.

Also, resolutions adopted by the board of trustees of the Chamber of Commerce, San Francisco, Cal., protesting against the free admission of burlap bags into this country; to the Committee on Ways and Means.

By Mr. MALBY: Petition of W. H. Gordon and others, requesting a reduction in the tariff on raw and refined sugars; to the Committee on Ways and Means.

By Mr. O'SHAUNESSY: Petition by the Carded Woolen Association, Boston, Mass., that the rates in Schedule K should be as far as possible ad valorem, because specific rates necessarily result in great irregularities, especially when imposed on a commodity varying as wide as wool does in condition and value; to the Committee on Ways and Means.

Also, petition of Michael Eagan and sundry citizens of Providence, R. I., for a reduction in duty on raw and refined sugars in the interests of the consumers of the country; to the Committee on Ways and Means.

By Mr. WILLIS: Papers to accompany House bill 4402, granting an increase of pension to John Scott; to the Committee on Invalid Pensions.

Also, resolutions adopted by Ohio State Council, Junior Order United American Mechanics, asking for the further restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. WOOD of New Jersey: Resolutions adopted by Local No. 296, Journeymen Barbers' Association of America, of Trenton, N. J., urging immediate action on the resolution of investigation in reference to John J. McNamara, introduced by Representative BERGER, of Wisconsin; to the Committee on Labor.

SENATE.

TUESDAY, *May 23, 1911.*

The Senate met at 2 o'clock p. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Journal of yesterday's proceedings was read and approved.

RANDOLPH M. PROBSFIELD V. UNITED STATES.

The VICE PRESIDENT laid before the Senate a communication from the chief clerk of the Court of Claims, transmitting a certified copy of findings of fact filed by the court in the cause of Randolph M. Probsfield *v.* United States, which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed. (S. Doc. No. 37.)

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed a bill (H. R. 8649) to authorize the extension and widening of Colorado Avenue NW., from Longfellow Street to Sixteenth Street, and of Kennedy Street NW. through lot No. 800, square No. 2718, in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a petition of the congregation of the Church of the Brethren, of Burlington, W. Va., praying for the enactment of legislation to prohibit the sale and traffic in opium, which was referred to the Committee on Foreign Relations.

He also presented a petition of sundry members of the Third Unitarian Congregational Society, of Brooklyn, N. Y., praying for the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

Mr. CULLOM. I present numerous memorials remonstrating against the ratification of the proposed arbitration treaty with Great Britain, which I ask may be referred to the Committee on Foreign Relations. I also desire to state that in my position as chairman of the Committee on Foreign Relations some 2,000 letters protesting against the ratification of the treaty have been received by me.

The memorials presented by Mr. CULLOM were referred to the Committee on Foreign Relations, as follows:

Memorials of the Robert Fulton Social and Literary Society, of New York City; of the Star Spangled Banner Association of America; of the Peter O'Neill Crowley Club, of Kansas City, Mo.; of sundry citizens of Braddock, Pa.; of Local Division No. 46, Ancient Order of Hibernians, of Philadelphia, Pa.; of sundry citizens of New York; of Monsignor Slocum Branch, Ancient Order of Hibernians, of Waterbury, Conn.; of the United Irish Societies of Bristol County, Mass.; of sundry citizens of the eighth congressional district, Montclair, N. J.; of Local Branch No. 5, District No. 9, St. Patrick's Alliance of America, of Passaic, N. J.; of Local Division No. 10, Ancient Order of Hibernians, of Philadelphia, Pa.; of sundry citizens of Pueblo, Colo.; of Local Division No. 1, Ancient Order of Hibernians, of Dover, N. H.; of the Knights of the Red Branch, of East St. Louis, Ill.; of the county board of officers and directors, Ancient Order of Hibernians, of Fairfield County, Conn.; of the county officers, Ancient Order of Hibernians, of Strafford County, N. H.; of sundry citizens of Attleboro, Mass.; of sundry citizens of New Haven, Conn.; of the Jefferson Democratic Club of Perth Amboy; of the Central Labor Board of Perth Amboy; of the Washington Club of Perth Amboy; of Local Division No. 3, Ancient Order of Hibernians, of Perth Amboy; of the county board, Ancient Order of Hibernians, of Middlesex County; of District No. 8, St. Patrick's Alliance of America, of Middlesex County; of Independent Branch No. 1, St. Patrick's Alliance, of Perth Amboy; of Local Division No. 2, Ancient Order of Hibernians, of Sayreville; of Local Division No. 7, Ancient Order of Hibernians, of Chrome; of sundry citizens of New Brunswick; and of the Deutsch American Central Verein of Middlesex County, all in the State of New Jersey.

Mr. CULLOM presented a petition of the Chamber of Commerce of Philadelphia, Pa., praying for the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

Mr. BRANDEGEE presented a memorial of Local Division No. 1, Ancient Order of Hibernians, of Wallingford, Conn., remonstrating against the ratification of the treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

He also presented a petition of the Fairfield East Consociation of Congregational Churches of Connecticut, praying for the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

He also presented a petition of the Connecticut Merchants' Association, praying for the establishment of a self-sustaining parcels-post system, which was referred to the Committee on Post Offices and Post Roads.

Mr. PERKINS presented a memorial of Railroad Lodge No. 610, International Association of Machinists, of Oakland, Cal., remonstrating against the adoption of the Taylor system of shop management by the Government in arsenals and navy yards, which was referred to the Committee on Naval Affairs.

He also presented memorials of sundry manufacturers of San Francisco and San Jose, in the State of California, remonstrating against any reduction in the duty on alimentary pastes, which was referred to the Committee on Finance.

Mr. JONES presented a memorial of sundry citizens of Spokane, Wash., remonstrating against the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

Mr. TOWNSEND presented petitions of sundry volunteer officers of the Civil War of Marquette, Coldwater, Ann Arbor, and Romeo, in the State of Michigan; of El Dorado and Ness City, Kans.; and of Minneapolis, Minn., praying for the enactment of legislation to place certain volunteer officers of the Civil War on the retired list, which were referred to the Committee on Military Affairs.

Mr. WATSON presented a memorial of sundry druggists of Charleston, W. Va., remonstrating against the imposition of a stamp tax on proprietary medicines, which was referred to the Committee on Finance.

Mr. BURNHAM presented the memorial of Rev. T. S. Tyng, of Ashland, N. H., remonstrating against the adoption of certain amendments to the proposed constitution of New Mexico, which was referred to the Committee on Territories.

He also presented memorials of Local Divisions Nos. 1, 2, 7, and 8, and Central Union, Ancient Order of Hibernians, of Manchester, N. H., remonstrating against the ratification of the proposed treaty of arbitration between the United States and Great Britain, which were referred to the Committee on Foreign Relations.

He also presented a petition of the General Conference of the Congregational Churches of Claremont, N. H., praying for the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

Mr. ROOT presented petitions of 93 citizens of Schenectady, 21 citizens of Newburgh, and 9 citizens of Middletown, all in the State of New York, praying for the establishment of a national department of public health, which were referred to the Committee on Public Health and National Quarantine.

Mr. GALLINGER presented the memorial of J. H. Phillips, of Swanzey, N. H., and the memorial of George D. Stone, of Swanzey, N. H., remonstrating against the reciprocal trade agreement between the United States and Canada, which were referred to the Committee on Finance.

He also presented a memorial of the Ancient Order of Hibernians of Manchester, N. H., remonstrating against the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

Mr. O'GORMAN presented a petition of the Manufacturers Association of New York, praying for the establishment of a United States court of patent appeals, which was referred to the Committee on Patents.

He also presented a petition of the Fine Arts Federation of New York City, N. Y., praying that the site be selected for the Lincoln memorial in the city of Washington, as recommended by the Park Commission, which was referred to the Committee on the District of Columbia.

He also presented a memorial of the Glove Table Cutters' Union, of Gloversville, N. Y., remonstrating against fine gloves being placed on the free list, which was referred to the Committee on Finance.

He also presented petitions of sundry citizens of New York City, N. Y., praying that the Woman's National Weekly be admitted to the mails as second-class matter, which were referred to the Committee on Post Offices and Post Roads.

He also presented a petition of the Mine & Smelter Supply Co., of New York City, N. Y., praying for the adoption of a 1-cent postage on first-class mail matter weighing 1 ounce or less, which was referred to the Committee on Post Offices and Post Roads.

He also presented petitions of sundry citizens of New York, praying for the establishment of a national department of public health, which were referred to the Committee on Public Health and National Quarantine.

He also presented a memorial of Local Union No. 229, International Brotherhood of Stationary Firemen, of Fort Edward, N. Y., and a memorial of Pomona Grange, Patrons of Husbandry, of Essex County, N. Y., remonstrating against the reciprocal trade agreement between the United States and Canada, which were referred to the Committee on Finance.

He also presented a memorial of the Shoe Manufacturers' Association of New York, remonstrating against placing shoes on the free list, which was referred to the Committee on Finance.

He also presented memorials of sundry citizens of New York, remonstrating against the reciprocal trade agreement between the United States and Canada, especially in reference to print paper and wood pulp, which were referred to the Committee on Finance.

PUBLIC BUILDING AT BANGOR, ME.

Mr. WETMORE. From the Committee on Public Buildings and Grounds I report back, with an amendment in the nature of a substitute, the bill (S. 2055) to provide for the erection of a public building at Bangor, Me., and I submit a report (No. 36) thereon. I ask unanimous consent for its immediate consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendment was to strike out all after the enacting clause and insert:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to acquire, by purchase, condemnation, or otherwise, a suitable site, and to contract, within the limit of cost hereinafter fixed, for the erection and completion thereon of a suitable and commodious building, including fireproof vaults, heating, hoisting, and ventilating apparatus, and approaches, complete, for the use and accommodation of the post office and other Government offices at Bangor, Me., at a cost for said site and building of not exceeding $400,000.

An open space of such width, including streets and alleys, as the Secretary of the Treasury may determine shall be maintained about said building for the protection thereof from fire in adjacent buildings.

For the purposes aforesaid the sum of $150,000 is hereby appropriated out of any moneys in the Treasury not otherwise appropriated: *Provided*, That the balance of the appropriation heretofore made by the

sundry civil act of June 25, 1910, for the retaining wall and approaches at the former post-office building in said city, is hereby reappropriated and made immediately available, in addition to the appropriation hereinbefore made, toward the purposes of this act.

And the Secretary of the Treasury is further authorized and directed to sell, in such manner and upon such terms as he may deem for the best interests of the United States, the site and remains of the former post-office building in said city recently destroyed by fire; to convey the last-mentioned land to such purchaser or purchasers by the usual quit-claim deed, and to deposit the proceeds derived from such sale in the Treasury of the United States as a miscellaneous receipt.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading and to be read the third time.

The bill was read the third time and passed.

The title was amended so as to read: "A bill to provide for the purchase of a site and the erection of a new public building at Bangor, Me., also for the sale of the site and ruins of the former post-office building."

ADDRESS BY SENATOR JOSEPH F. JOHNSTON.

Mr. SMOOT. From the Committee on Printing I ask that a certain address by the Senator from Alabama [Mr. JOHNSTON], delivered December 31, 1907, before the Algonquin Club, Boston, Mass., be printed as a public document. (S. Doc. No. 36.)

The VICE PRESIDENT. Without objection, the order requested will be entered.

BILLS AND JOINT RESOLUTIONS INTRODUCED.

Bills and joint resolutions were introduced, read the first time, and by unanimous consent the second time, and referred as follows:

By Mr. SWANSON:

A bill (S. 2471) granting an increase of pension to Moses M. Whitney; to the Committee on Pensions.

By Mr. CUMMINS:

A bill (S. 2472) granting a pension to Bert E. Lockwood (with accompanying papers); to the Committee on Pensions.

By Mr. BRANDEGEE:

A bill (S. 2473) granting an increase of pension to Mary E. Carpenter;

A bill (S. 2474) granting an increase of pension to Alvord D. Chappell; and

A bill (S. 2475) granting an increase of pension to Isabella Oliver; to the Committee on Pensions.

By Mr. CHAMBERLAIN:

A bill (S. 2476) granting an increase of pension to Joseph P. Sullivan (with accompanying papers); to the Committee on Pensions.

By Mr. JONES:

A bill (S. 2477) granting an increase of pension to William Fitzgerald;

A bill (S. 2478) granting an increase of pension to Thomas Boland;

A bill (S. 2479) granting an increase of pension to Lyman C. Brown;

A bill (S. 2480) granting an increase of pension to Chauncey M. Carpenter;

A bill (S. 2481) granting an increase of pension to Michael Culp;

A bill (S. 2482) granting an increase of pension to William H. Dupray;

A bill (S. 2483) granting an increase of pension to Andrew J. Laws;

A bill (S. 2484) granting an increase of pension to John Leavell;

A bill (S. 2485) granting an increase of pension to George W. McKain;

A bill (S. 2486) granting an increase of pension to Alexander J. Matthews;

A bill (S. 2487) granting an increase of pension to Simon W. Morgan;

A bill (S. 2488) granting an increase of pension to Thomas H. Rutter;

A bill (S. 2489) granting an increase of pension to Charles E. Steadman;

A bill (S. 2490) granting an increase of pension to Leeman Underhill; and

A bill (S. 2491) granting an increase of pension to Henry H. Warner; to the Committee on Pensions.

By Mr. CRANE:

A bill (S. 2492) to place William F. Greeley on the retired list of the Army (with accompanying papers); to the Committee on Military Affairs.

By Mr. STONE:

A bill (S. 2493) authorizing the Secretary of the Treasury to make an examination of certain claims of the State of Missouri; to the Committee on Claims.

By Mr. HEYBURN:

A bill (S. 2494) granting an increase of pension to Charles E. Clark (with accompanying paper); to the Committee on Pensions.

By Mr. GALLINGER:

A bill (S. 2495) to define and classify health, accident, and death benefit companies and associations operating in the District of Columbia, and to amend section 653 of the Code of Law for the District of Columbia; to the Committee on the District of Columbia.

By Mr. JOHNSON of Maine:

A bill (S. 2496) granting an increase of pension to David H. Robinson (with accompanying paper); and

A bill (S. 2497) granting a pension to Charles E. Jackson (with accompanying paper); to the Committee on Pensions.

By Mr. WATSON:

A joint resolution (S. J. Res. 28) authorizing the Secretary of War to donate two condemned cannon to the State of West Virginia for use at National Guard Armory at Huntington, W. Va.; and

A joint resolution (S. J. Res. 29) authorizing the Secretary of War to donate two condemned cannon to the State of West Virginia for use at Berkeley Springs Park; to the Committee on Military Affairs.

By Mr. TERRELL:

A joint resolution (S. J. Res. 30) authorizing the Secretary of Commerce and Labor to employ 10 commercial cotton agents to be stationed in foreign lands for the purpose of promoting foreign commerce in raw cotton and its manufactured products; to the Committee on Agriculture and Forestry.

WITHDRAWAL OF PAPERS—JAMES L. BRADFORD.

On motion of Mr. FOSTER, it was—

Ordered, That the papers in the case of Senate bill 1232, Sixty-first Congress, first session, for the relief of James L. Bradford, be withdrawn from the files of the Senate, there having been no adverse report thereon.

STUDIES IN CRIMINOLOGY.

Mr. CLAPP. I ask that the manuscript of studies in criminology, including other patho-social conditions, now on the files of the Senate, be withdrawn and that it be referred to the Committee on Printing.

The VICE PRESIDENT. Without objection, it is so ordered.

DELIVERY OF MAIL FROM MOVING TRAINS.

Mr. CUMMINS. I submit a resolution, and ask for its immediate consideration.

The resolution (S. Res. 47) was read, considered by unanimous consent, and agreed to as follows:

Whereas the Post Office Department has for more than 25 years last past been endeavoring to secure a device which will reduce to the minimum injury to persons and property incident to the delivering of mails to and from moving trains; and

Whereas the department has from time to time advertised for proposals for such a device, and has at different times appointed committees of experts to examine different devices presented for its consideration, all of which has occurred at great expense to the Government; and

Whereas the Postmaster General, on the 15th day of March, 1910, formally approved a device for this purpose; and

Whereas the Second Assistant Postmaster General, on the 5th day of May, 1910, stated in a communication to the General Superintendent of the Railway Mail Service that the device so approved had successfully stood the tests prescribed by the department and had been approved by the Postmaster General, and further stated that it was expected that all the railway companies using catcher service for the exchange of mails would take steps for the introduction of an improved system of exchanging the mails at such stations on or before the 5th day of May, 1911; and

Whereas it is known that the railway companies have not complied with the direction of the department: Be it therefore

Resolved, That the Postmaster General be, and he is hereby, directed to furnish for the information of the Senate of the United States the causes of injuries to persons and damage and destruction of mail and mail equipment from accidents resulting from delivering and receiving mail to and from moving trains at what are known as catcher stations, the amount of mails, including newspapers and periodicals, lost or damaged, the places where the injury or damage occurred, the amount of loss to the Government or the railway companies, or both, on account of same, and also to state for the information of the Senate what, if anything, the department has done to compel the railway companies to equip their cars and stations with a suitable device approved by the department, in order to avoid the aforesaid injuries to persons and damage to mail and mail equipment.

THE STANDARD OIL CO. ET AL. V. THE UNITED STATES.

Mr. POMERENE submitted the following resolution (S. Res. 48), which was considered by unanimous consent and agreed to:

Whereas the Supreme Court of the United States, in the case of the Standard Oil Co. of New Jersey et al. *v.* The United States, decreed, in effect, that the Standard Oil Co. of New Jersey and 33 other constituent corporations and 7 individual defendants, John D. Rockefeller, Wil-

liam Rockefeller, Henry H. Rogers, Henry M. Flagler, John D. Archibald, Oliver H. Payne, and Charles M. Pratt, have united together to form and effect a combination, and as such conspired to monopolize and have monopolized, and are continuing to monopolize, a substantial part of the commerce among the States, in the Territories, and with foreign nations in restraint of interstate trade and commerce in violation of sections 1 and 2 of the Sherman antitrust law; and

Whereas under the provisions of said act, if the said defendants, or any of them, or any one for them, has entered into a combination or monopoly in restraint of trade or commerce among the several States, in the Territories, or with foreign nations, they are amenable to criminal prosecution: Therefore be it

Resolved, That the Attorney General of the United States be, and he is hereby, directed to inform the Senate of the United States what, if any, criminal prosecutions have been begun or are now pending against the said the Standard Oil Co. of New Jersey, or the said constituent companies, or individual defendants above named, or any of them, for violations of said sections 1 or 2 of said Sherman antitrust law.

REPORT ON SEIZURES OF COTTON.

Mr. WILLIAMS submitted the following resolution (S. Res. 49), which was read and referred to the Committee on Printing:

Resolved, That there be printed for the use of the Senate document room 1,000 copies of Executive Document No. 23, Forty-third Congress, second session, entitled "A Report of the Acting Secretary of the Treasury," in relation to the number of bales of cotton seized under orders of that department after the close of the war.

ASSISTANT CLERK TO COMMITTEE ON THE LIBRARY.

Mr. WETMORE submitted the following resolution (S. Res. 50), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Committee on the Library be, and it is hereby, authorized to employ an assistant clerk at a salary of $1,500 per annum, to be paid from the contingent fund of the Senate until otherwise provided by law.

SENATOR FROM ILLINOIS.

Mr. MARTIN of Virginia. I submit a resolution and ask that it be read, printed, and lie on the table.

The resolution (S. Res. 51) was read, as follows:

Whereas the Senate adopted a resolution June 20, 1910, directing the Committee on Privileges and Elections to investigate the charges relating to the election of WILLIAM LORIMER to the Senate of the United States; and

Whereas since the Senate voted on the report of that committee it is represented that new material testimony has been discovered in reference to such matter; and

Whereas the *senate of* the State of Illinois, on the 18th of May, 1911, adopted a resolution for the reasons therein stated, requesting the Senate of the United States to institute further investigation of the election of WILLIAM LORIMER to the Senate: It is therefore

Resolved by the Senate of the United States, That the Committee on Privileges and Elections, sitting in banc, be, and are hereby, authorized and directed forthwith to investigate whether in the election of WILLIAM LORIMER as a Senator of the United States from the State of Illinois there were used and employed corrupt methods and practices; that said committee be authorized to sit during the sessions of the Senate and during any recess of the Senate or of Congress; to hold sessions at such place or places as it shall deem most convenient for the purposes of the investigation; to employ stenographers, counsel, and accountants; to send for persons and papers; to administer oaths; and as early as practicable to report the results of its investigation, including all testimony taken by it; and that the expenses of the inquiry shall be paid from the contingent fund of the Senate, upon vouchers to be approved by the chairman of the committee. The committee is further and specially instructed to inquire fully into and report upon the alleged "jack-pot" fund in its relation to and effect, if any, upon the election of WILLIAM LORIMER to the Senate.

The VICE PRESIDENT. The resolution will be printed, under the rule, and, without objection, it will lie on the table.

CIVIL GOVERNMENT FOR ALASKA.

Mr. SMITH of Michigan submitted the following resolutions (S. Res. 52), which were read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Whereas certain bills are now pending before the Senate Committee on Territories providing for a civil government for Alaska, these measures having been proposed looking toward a thorough readjustment of the rules applicable to the government and control of that Territory: Therefore be it

Resolved, That the Committee on Territories be, and they are hereby, authorized and directed, by subcommittee or otherwise, to investigate the present needs and requirements of the people of Alaska, having especial reference to such legislation as may be necessary and desirable for the purpose of establishing a form of self-government or otherwise for said Territory; and be it further

Resolved, That said committee or any subcommittee are hereby authorized to sit, by subcommittee or otherwise, during the sessions or recess of the Senate at such time or places as they may deem advisable; and be it further

Resolved, That they shall be empowered to send for persons and papers, to administer oaths, and to employ such stenographic or other assistance as they may deem necessary for that purpose, the expense of such investigation or inquiry to be paid from the contingent fund of the Senate; and be it further

Resolved, That the committee is authorized to compile the Territorial laws applicable to Alaska, and order such printing and binding as may be necessary for its use.

HOUSE BILL REFERRED.

H. R. 8649. An act to authorize the extension and widening of Colorado Avenue NW. from Longfellow Street to Sixteenth Street, and of Kennedy Street NW. through lot No. 800, square No. 2718, was read twice by its title and referred to the Committee on the District of Columbia.

ELECTION OF SENATORS BY DIRECT VOTE.

The VICE PRESIDENT. The morning business is closed.

Mr. BORAH. I ask unanimous consent to take up House joint resolution 39.

There being no objection, the Senate as in Committee of the Whole resumed the consideration of the joint resolution (H. J. Res. 39) proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Kansas [Mr. BRISTOW].

Mr. BRISTOW. Mr. President, there have been a great many inquiries made as to just what the joint resolution I have offered as a substitute provides. I want to invite the attention of the Senate to the changes which it proposes in the Constitution, and I shall occupy but a very few moments.

I offered the substitute for the joint resolution chiefly for the reasons: First, I think it desirable, because it makes the least possible change in the Constitution to accomplish the purposes desired; that is, the election of Senators by popular vote; and, second, because it is in the same form in which it was voted upon at the last session, when it received within 4 votes of enough to insure its adoption. Since that vote was taken 10 Members of the Senate who voted against the joint resolution have been succeeded by other Members, and I am advised that a majority of the 10 new Members will vote for the joint resolution, so that I have no doubt of its passage if it is submitted to the Senate at this time in the form in which it was submitted at the last Congress.

If Senators will take the Constitution, Rules, and Manual of the Senate, and turn to the Constitution on page 184, in section 2, Article I, I will call attention to the changes which are proposed. First, I will direct the Senate's attention to section 3 of Article I, which reads as follows:

SEC. 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof, for six years; and each Senator shall have one vote.

This substitute of mine proposes to change that section by the striking out of the words "chosen by the legislature thereof" and inserting "elected by the people thereof."

The only change in section 3 is the substitution of the words "elected by the people thereof" for the words "chosen by the legislature thereof." That certainly is as simple a change as can be made. It involves no other question except the transferring of the election of Senators from the legislatures to the popular electors.

Then a change is made in section 2 of the same article, the section which refers to the House of Representatives. It now reads:

SEC. 2. The House of Representatives shall be composed of Members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

That provides for the election of Members of Congress; it provides the qualifications of the electors in such an election, and I have inserted that in my substitute, so that it reads:

The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

I have used the exact language used in the Constitution prescribing the qualifications of electors who will vote for Senator that is used in prescribing the qualifications of electors who vote for Members of Congress—nothing more and nothing less. So this substitute of mine simply transfers the election of Senators from the legislatures to the people, and provides that the electors, when they cast their vote for a Senator, shall have exactly the same qualifications as the electors who cast their votes for a Member of the House of Representatives.

The only other change that is proposed to be made in the Constitution as it is now is a provision for the filling of vacancies. The Constitution as it now reads, referring to vacancies in the Senate, says:

And if vacancies happen by resignation, or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

Instead of that, I provide the following:

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies.

Which is exactly the language used in providing for the filling of vacancies which occur in the House of Representatives, with the exception that the word "of" is used in the first line for the word "from," which, however, makes no material difference.

Then my substitute provides that—

The legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

That is practically the same provision which now exists in the case of such a vacancy. The governor of the State may appoint a Senator until the legislature elects. My amendment provides that the legislature may empower the governor of the State to appoint a Senator to fill a vacancy until the election occurs, and he is directed by this amendment to "issue writs of election to fill such vacancies."

That is, I use exactly the same language in directing the governor to call special elections for the election of Senators to fill vacancies that is used in the Constitution in directing him to issue writs of election to fill vacancies in the House of Representatives.

It is unnecessary for me to make any extended remarks in regard to my substitute for the joint resolution. I believe it is the best proposition, because it is the simplest of any that has been presented. It is substantially in the same language as the resolution which I introduced some two years ago, from which the joint resolution reported by the Committee on the Judiciary was formed. A very extended discussion was had on the joint resolution in the last Congress. A great deal of outside controversy was injected into it. I do not believe that section 4 of Article I of the Constitution should be in any way touched by the pending joint resolution. It is a separate and distinct proposition, and I do hope that Senators will not insist that we repeal a part of section 4 of Article I of the Constitution in order that we may give the people of the various States an opportunity to elect their Senators at a general election, instead of by the legislature.

I do not intend to enter into any elaborate discussion of section 4, Article I, of the Constitution as to the wisdom or unwisdom of its being repealed or modified in any way, because I do not think it ought to have any part in this discussion. I am going to vote for the joint resolution, whether any substitute shall be adopted or not, because the great question here is whether the people shall have an opportunity to elect their Senators instead of having them elected by the legislature. I believe the joint resolution is better in the form proposed by the substitute; I believe that it will be more satisfactory to the people of the country in that form, and I sincerely trust that the issue will not be confused by injecting into the discussion controversies that are foreign to it.

Mr. BRANDEGEE. Mr. President, I want to call the attention of the Senator from Kansas to the fact that section 2, Article I, of the Constitution, as read by him, provides:

The House of Representatives shall be composed of Members chosen even second year—

And section 3, as quoted by him, provides:

The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof.

Section 4 also uses the word "chosen," only it is spelled in a different way. It provides:

But the Congress may at any time by law make or alter regulations, except as to the places of chusing Senators.

The Senator's proposed amendment inserts the word "elected," in line 9, on the first page, instead of the word "chosen," and yet he preserves the word "chosen" in the tenth line, on page 2. I desire to know if there is any distinction between the use of the two words, and whether it would not be better to have the language uniform through all sections of the Constitution.

Mr. BRISTOW. Well, I do not think there is any material difference. The phrases "chosen by the legislature" or "elected by the legislature," it seems to me, mean the same thing. I have used the phrase "elected by the people thereof" because that is the phrase that is generally used in discussing the matter.

Mr. BRANDEGEE. If the Senator will permit me, I am aware of that fact; but I ask, if that is so, why does he not use the same word in line 10 of page 2 of his amendment, where it provides—

This amendment shall not be so construed as to affect the election or term of any Senator chosen, etc.—

Whereas previously the amendment provides that Senators shall be elected?

Mr. SUTHERLAND. Mr. President, if the Senator from Kansas will allow me a moment——

Mr. BRISTOW. Certainly.

Mr. SUTHERLAND. I think the language the Senator from Kansas has used is entirely appropriate to accomplish the purpose which he intends to accomplish. In the first part of the proposed substitute the provision is:

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof.

That is providing for a new method of selecting Senators. Heretofore they have been chosen by the legislatures; now they are to be elected by the people; but in the latter part of the proposed substitute, where the provision is that the amendment which alters the method by which Senators shall be elected shall not be construed so as "to affect the election or term of any Senator chosen before it becomes valid," the word "chosen" is there used with reference to the selection by the legislature, while in the first part the word "election" is used with reference to the selection by the people.

Mr. BRANDEGEE. Mr. President, if I may be permitted, if that distinction is intentional and of any significance whatever, why should not section 2, Article I, of the Constitution, which prescribes that "the House of Representatives shall be composed of Members chosen every second year by the people," be amended also so that it will read "elected by the people," instead of "chosen by the people"?

Section 2 provides for the manner of electing Members of the House of Representatives and uses the word "chosen." My point is that if there is any subtle distinction between the use of the word "chosen" and the word "elected," the language should be uniform in the different sections of the Constitution which we are proposing to amend. I do not know that there is any distinction between them, and I am inclined to think there is not; but I do think that the word ought to be used uniformly at least for the appearance of the diction of the section.

Mr. BRISTOW. I desire to say that, in line 2, page 2, of the proposed amendment, the word should be "legislature" instead of "legislatures"; that is, the "s" should be stricken off of the word, so that it will be singular instead of plural.

The VICE PRESIDENT. The amendment will be so modified, if there be no objection.

Mr. BRISTOW. The point raised by the Senator from Connecticut [Mr. BRANDEGEE] I do not think is at all material. The word "chosen," which is in line 10, on page 2, simply refers to Senators who have been chosen under the phraseology of the Constitution as it now exists; and I can not see any objection to it in that connection.

Mr. SMITH of Michigan. Mr. President, I should like to ask the Senator from Kansas whether the substitute which he has offered is in the same form and language as the substitute submitted by the Senator from Utah [Mr. SUTHERLAND] upon which we voted at the last session?

Mr. BRISTOW. It is in the same form as the joint resolution which was amended on motion of the Senator from Utah at the last session.

Mr. SMITH of Michigan. Then, it will leave the question of the election of Senators by direct vote of the people stripped of every other proviso or rider with reference thereto, the sole question involved being the manner of their election?

Mr. BRISTOW. It simply incorporates the words "elected by the people" for the words "chosen by the legislature." That is the only change that is made.

Mr. SMITH of Michigan. The safeguards which the Constitution has thrown around the authority of the General Government in the choice of these officers remains unimpaired?

Mr. BRISTOW. The Constitution is left just as it is now in that respect.

Mr. SMITH of Michigan. Mr. President, I am only going to say that I am strongly in favor of the resolution providing for the direct election of Senators by the people. In many ways I have contributed toward that result and have voted for such a resolution while a Member of the House of Representatives. That proposition places me in direct harmony with the expressed wishes of the people of our State, and I desire to redeem that promise made by my party.

I do not believe it to be wise to burden this proposal with any race rider or kindred problem of any kind or character. I think it should be shorn of every burden or subterfuge calculated to defeat it before the legislatures of our States.

Mr. BORAH. Mr. President——

The VICE PRESIDENT. Does the Senator from Michigan yield to the Senator from Idaho?

Mr. SMITH of Michigan. Yes.

Mr. BORAH. What particular feature of the joint resolution as it was introduced does the Senator consider to be a subterfuge?

Mr. CLAPP. We can not hear what the Senator from Idaho says.

Mr. SMITH of Michigan. I did not mean to use the term "subterfuge" as a criticism of the honored Senator from Idaho. I think perhaps he has his measure in as good form as he has been able to get it from the committee to which it was referred, and I am finding no fault with him about it. I think

he is as zealous and as honest as any other Member of the Senate in his desire for this reform, but I regard the element of time and the general supervision which the Federal authority may now exercise over the choice of Senators, as well as Representatives, as very desirable to be retained in the Constitution, and it is my intention to vote for the substitute of the Senator from Kansas [Mr. BRISTOW].

If we can have this naked proposition, providing for the direct election of Senators by the people, unincumbered, I shall be very glad, but if the substitute of the Senator from Kansas shall fail, I then propose to cast my vote in favor of the joint resolution reported by the Senator from Idaho, and feel that by so doing I am discharging a solemn duty which I owe to the people of my State.

Mr. HITCHCOCK. I desire to ask the Senator from Kansas whether his substitute takes into account section 4 of Article I of the Constitution? Section 4 provides:

> The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof, but the Congress may at any time by law make or alter such regulations, except as to the places of chusing Senators.

Mr. BRISTOW. We leave that just as it is. It does not affect or change it in any way.

Mr. HITCHCOCK. Then if his substitute were adopted there would still be a distinction between the power of Congress as it affects the election of Senators and as it affects the election of Representatives. That is, as it is now, Congress would have no power to alter the action of the legislature——

Mr. BRISTOW. It will have just the power that it now has. I do not undertake to change in any way the authority which the Congress has now over the election of Senators——

Mr. HITCHCOCK. That is to say, Congress would then have power to dictate to the States the places at which the election of Representatives should occur, while having no power to dictate to the States the places at which the election of Senators should occur.

Mr. BRISTOW. "But the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators." We leave that just as it is.

Mr. HITCHCOCK. I should like to ask the Senator whether that would not create possibly an awkward conflict where Congress has reserved the power in one case and not in the other?

Mr. BRISTOW. I do not myself think it is a matter of any consequence.

Mr. HITCHCOCK. I am merely inquiring to know whether they should not be placed in harmony. Does the Senator intend that Congress shall have no power over the States with relation to the places of choosing Senators, while it does retain that power over the States in the election for the choosing of Representatives?

Mr. BRISTOW. I can say no more than I said before, that I do not think the question of regulating the place where Senators should be elected is of any consequence. I am perfectly willing to leave the Constitution just as it is. Congress never has exercised that authority, and what I am seeking to do is to change the Constitution just as little as it can be changed in order to bring about a direct election of Senators by the people instead of an election by the legislature.

Mr. HITCHCOCK. I merely raised this question because in the joint resolution as passed by the House of Representatives and as pressed by the Senator from Idaho that matter is made clear by the paragraph which provides that—

> the times, places, and manner of holding elections for Senators shall be as prescribed in each State by the legislature thereof——

Mr. BRISTOW. Yes.

Mr. HITCHCOCK. And in the joint resolution proposed as a substitute by the Senator from Kansas there seems to be an ambiguity, possibly, between the two provisions.

Mr. BRISTOW. I regret that the Senator should think there is an ambiguity. I think that the resolution as reported by the Senator from Idaho undertakes to amend section 4, and I did not want to amend section 4 in any way. I wanted to leave it alone, because I do not think it is necessary to amend it in order to accomplish the purpose that we are undertaking to accomplish here by this amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Kansas.

Mr. ROOT. Mr. President, this subject has been very fully debated in the Senate, and I do not wish to occupy the time of the Senate by going over the same arguments that I myself have already made or by repeating the arguments of others. I do wish, before the vote is taken, to state the position I take and the views which influence me to vote as I shall vote.

I shall vote for the substitute offered by the Senator from Kansas, and I shall then vote against the proposition to amend the Constitution. I shall vote for the substitute because it strikes out from the proposed amendment the amendment of section 4 of Article I, and I shall vote against the proposition as a whole because I am opposed to the amendment of section 3 of Article I.

There are two separate, distinct, and independent amendments of the Constitution included in the joint resolution as reported by the Committee on the Judiciary. One is an amendment to section 3, so as to provide for the election of Senators by the people instead of their election by the State legislatures. The other is an amendment of section 4 of Article I, so as to take away from the Congress of the United States the power to make or alter the regulations which may be prescribed by the several State legislatures in respect of the choosing of Senators.

The second amendment—that to section 4—is wholly unnecessary to the effectiveness of the first amendment, relating to the election of Senators by the people. There is no occasion whatever to destroy the power and authority of the Government of the United States over the process of constituting its own legislative body in order to secure the change of election from the State legislatures to the people of the several States. It is a new, additional, independent, disconnected, and unnecessary amendment of the Constitution. It has no place in the deliberations of this body or of any body upon the change in the manner of electing Senators. A change from the election by the legislature to an election by the people can be made with or without the other amendment, and wholly unaffected by it.

The people of the United States may wish for one and may not wish for the other. They ought not to be compelled to vote for one, which they may not wish for, as a condition for securing the other, which they may wish for. Each should stand upon its own basis. The people of the country should have an opportunity to vote to change the manner of the election of Senators, if they wish for it, without being compelled, as the price of getting it, to vote for the destruction of that control which the National Government has had from the beginning over the constitution of this great branch of the national institution.

I believe, sir, that the adoption of this amendment to section 4, which takes away the power of Congress to make in the last resort, if it finds it necessary, regulations to secure the effective, the honest, the uncontrolled selections of Members of the Senate, would be a reversal of the theory of the Constitution. I believe that it would strike a blow at that power of independent self-support which is essential to the perpetuity and the effectiveness of government. I believe that it would be a revertal to the theory of the old Confederation, under which the Government of the United States was dependent upon the States, and an abandonment of the theory of the Constitution under which we live, which was that the Government of the United States should stand erect and self-sustaining and have all the powers necessary for the maintenance of national life, dependent upon no State, upon no State legislature, and upon one power and upon no power whatever except the power of the Nation itself.

Mr. BORAH. Is it not true that the State legislature at this time has the sole and exclusive power to prescribe the manner of electing the electors who elect the President?

Mr. ROOT. It is.

Mr. BORAH. In what respect does this weakening of national powers differ from that which you choose to call a weakening with reference to the electing of electors?

Mr. ROOT. In this respect, Mr. President, if any State chooses not to take part in the election of the President, the President would be selected by the other States. Only the failure of all the States to perform their duty would prevent the election of a President.

Mr. BORAH. Is that not equally true with reference to Senators?

Mr. ROOT. No; it is not.

Mr. BORAH. If the State of New York should see fit not to choose her Senators, it would not hinder the State of Idaho from choosing hers?

Mr. ROOT. It would not; but it would prevent the Senate of the United States from having the representation of the State of New York in the membership of the body, and would render the Senate liable to have seats in the body filled by practices which might involve coercion, intimidation, and corruption, which it would have no power to prevent.

Mr. BORAH. The same effect precisely would be had upon the electoral college as to vacancies in the chairs, which should

be filled in that college as would be had should the State fail to elect Senators.

Mr. ROOT. In the ultimate result, Mr. President, we would receive the votes and count them, and the President would be elected. Any State which failed to perform its function would lose its voice in the selection of a President.

But, Mr. President, there is no proposition here to change the provision of the Constitution in regard to the election of the President. The proposition here is to change the Constitution so as to take away from the National Legislature the power to make any regulations with regard to its own creation, and it is to that that I object.

We have had occasion to exercise the power of regulation both in regard to the election of Members of the House of Representatives and in regard to the election of Senators. Congress in 1842 passed a statute to regulate the election of Members of the House. It was found necessary in order to have effective and proper elections. It has passed repeated statutes since then, notably in 1872, and our elections are being conducted now under those statutes passed by the Congress. Congress has found occasion to regulate the election of Senators, and those elections are being conducted now under the statute passed in 1866. No man can say that the time will not come again when it will be necessary for the Congress, in order to secure uniformity, in order to secure effectiveness, in order to prevent abuses, to exercise its power in respect of regulating the times and the manner of electing Members to each House of the National Legislature.

But, Mr. President, it was not my purpose, as I have already said, to reargue this case. I have stated the substantial grounds upon which I prefer that the substitute offered by the Senator from Kansas shall take the place of the original joint resolution. I shall oppose the resolution, then, on the ground that I think it is inexpedient and unnecessary to make any amendment of the Constitution at all in regard to the election of Senators. I believe that it will result in a deterioration in the personnel of the Senate. I believe that it will keep out of the Senate a large and important element well adapted to the performance of the peculiar and special duty of the Senate in our system of government. I believe that all the abuses which have led to such a desire for this change on the part of the people of the country can be cured by a simple amendment of the law, by amending the statute rather than by amending the Constitution of the United States.

Such a step I have already introduced. It was introduced at the last session and favorably reported by the Committee on Privileges and Elections. It has been introduced again at this session and is now pending before the Committee on Privileges and Elections. It provides for the election of Senators by a plurality, which is something that would be inevitable if we transfer the right of election from the legislatures to the people. It cures the evils which we have had by a simple amendment of the law. It affords an opportunity for a majority rule to control for a period which is stated in the bill as introduced at 20 days after the first convening of the two houses of the legislature. After the operation of 20 days has failed to produce an election by the majority rule, it provides for the application of a plurality rule.

Mr. President, I fully recognize the fact that we have going on throughout a large part of the country a process of change, a process of experiment in the way of modifying our governmental institutions. I recognize the fact that the people of many States have become dissatisfied with the way in which their political machinery has acted and that they desire to change it. I have great sympathy with the feeling and take great interest in the experiments that are being tried. I believe that good will come from the awakened interest of the people of the country in their own political affairs and from their determination to take a part in their affairs and to make their will effective.

But, sir, it is a process of experiment. We can not change the institutions of more than a century without long trial and consideration. Experiments will fail; experiments will succeed. All of us will see opportunities for modification and improvement. No one of us can evolve from his own thought, not all of us together can by conference produce, results which we may feel sure are better than the methods devised by the framers of our Government until the results have been put to the test of practical application.

The system under which we live, Mr. President, has produced the best results that ever have come from the experiments of mankind in government. We have received from our present institutions manifold blessings, and in the providence of God have wrought out under those institutions results which have made for the happiness, for the liberty, for the advancement of all mankind. With all history strewn with the wrecks of effort in government, with human nature still unchanged, I would hesitate long before assuming that my own judgment or the judgment of all of us can improve the system and framework of our Government except upon experiment and demonstration by practical application.

Mr. President, I do not like to see experiments begin or proceed in their early stages by amendments to the Constitution in advance of their being tried out fully. Amendments should be the result of long deliberation and trial. They should not initiate deliberation and trial.

For these reasons, sir, I shall take the course regarding the substitute and the joint resolution, whether the substitute be adopted or not, which I have indicated.

Mr. WILLIAMS. Mr. President, I had not intended to open my mouth at this session of the Senate of the United States, but it seems to me that it is necessary that my own position upon this question should be made clear. This is one of those curious and interesting cases where by keeping the language of the law just as it is in one place after a change in another place you change the facts, and where the only way of not changing the facts in their practical operation is to omit or change the language.

The Senator from New York [Mr. ROOT] is not only distinguished but notorious for his intellectual ingenuity, and with all of his ingenuity he can not cover up this practical change. The fact to-day is that when the people of Mississippi undertake to elect a legislature which is to elect a Senator the United States Government can not, does not pretend even to have the right to, interfere at the polls where the people are voting. If this change is made and the language in section 4 left just as it is and not omitted, then the power of the Federal Government is extended just that much further than it is to-day, to wit, that afterwards the Federal Government can at least pretend to the right, whether it have it or not, to interfere at the polls in the State of Mississippi when a Senator is being elected.

Now, gentlemen may refine all they please. They may split hairs "as betwixt the nor' and the nor'west side," but they know, just as well as the country, if intelligent, will know, that when they are pleading that the Constitution shall not be changed in section 4 they are really pleading that the relations between the Federal Government and the people at the polls shall be changed by adding a power which the Federal Government now has not, with regard to the presence and supervision of the election of a Senator.

I am not astonished at the position taken by the Senator from New York, because his object is to defeat the amendment to the Constitution making Senators to be elected by the people, and, of course, if he can force a large body of southern representatives by the adoption of the amendment of the main joint resolution as reported by the committee to a position of opposition he has with him upon the final vote against the adoption of the amendment to the Constitution just that many votes; and I presume, knowing his intelligence, that he has taken a reckoning of that fact. But I am a little astonished that the Senator from Kansas [Mr. BRISTOW], who desires the adoption of the amendment electing Senators by the people, should push his natural allies upon this subject, southern Senators, into that unnatural position.

Mr. President, the Senator from New York tells us that we should go slowly about changing the Constitution of the United States. It is strange that a New York Republican should tell a Democrat of my school that. I feel that, too; but the people of the United States have not gone rapidly about this. They have been considering it a long time. The Senate of the United States has been "tried in the balance" and, rightfully or wrongfully, wisely or foolishly, the people of the United States have concluded that as now constituted it has been found wanting.

I do not believe that the election of Senators by the people will result in any deterioration of the intellectual ability which will represent the States upon this floor. I know, as the Senator from New York says, that it might result in excluding from this Chamber "a certain element" which is of the highest ability in administering affairs, but it is an element that the people of the United States have concluded has been represented here too much.

Mr. President, I can not for the life of me see why the Senator from Kansas should desire to put us in the attitude in which he will put us if his amendment to the joint resolution shall prevail. Can no popular reform of any description be instituted in the United States without mulcting the South somewhere along the line—without demanding of her some special sacrifice? The Senator from Kansas, of course, knows as well as I do that if the joint resolution as it has come from the committee shall prevail there will be no change in the

facts, in the practical operation of things, in the present relationship between the Union and the States, whereas if he makes the change of fact by keeping the words which he proposes to keep in section 4, he does bring about practically the condition of things which our people at home would not admit for a moment of our overlooking, and concerning which they would condemn us if we omitted to take proper notice here and now.

Mr. President, I had not intended to be heard at all. That much I thought I ought to say.

Mr. SUTHERLAND. Mr. President, I have no intention of discussing this question at any great length. It was very fully discussed by the Senate within the last two or three months. But I do want to say a word or two to point out my position with reference to the joint resolution, and with reference to the substitute for it which has been proposed by the Senator from Kansas [Mr. BRISTOW].

In the first place, I am in hearty sympathy with the general proposition to amend the Constitution so as to provide for the election of United States Senators by the direct vote of the people. I am not going into any discussion of my reasons for that position. They have been stated very often. A United States Senator is a representative officer precisely the same as a Member of the House of Representatives, and I can see no reason why such a representative officer should not be elected by a *direct vote of the* people the same as a Member of the House of Representatives. I do not agree with the suggestion which has been made that we will in some unfortunate way affect the efficiency of this body or of the individual members of it. I think the tenure of office, six years, will of itself operate to mark whatever difference is desirable between these two great bodies—the House and the Senate.

It has been suggested that if we shall adopt this amendment and provide for the election of United States Senators by a direct vote of the people, it will next be proposed to destroy the equal representation which the States of the Union now enjoy in the Senate, and that we shall have a proposition, which ultimately will be adopted, that will provide for the same measure of representation that prevails in the other House, and that Senators will be elected in proportion to population and there will not be, as now, an equal representation from each State.

I do not well see how that can be brought about under that clause of the Constitution which provides that no State shall be deprived of its equal representation in this body without its own consent. I know it has been suggested that even that might be amended; but to destroy that provision would not be a change of the Constitution by the orderly processes of constitutional amendment. It would be equivalent to a revolution. That is the one thing which the people who framed this Constitution stipulated among themselves should never be altered so long as one State in the Union objected to it. I am not at all afraid that any serious attempt will ever be made to bring about that result.

But, Mr. President, while I am strongly in favor of this general proposition, I am opposed to the joint resolution as it has been presented, because the resolution as presented proposes not to accomplish the one result of electing Senators by direct vote of the people, but it proposes to accomplish that and another and an additional result, namely, the surrender of the power which the Government of the United States has possessed over the election of Senators from the foundation of this Government to the present day. The Constitution of the United States provides, in the first instance, that the legislatures of the various States shall regulate the times, places, and manner of choosing Representatives and of United States Senators, but that Congress may at any time make or alter such regulations. If we shall take out of the Constitution so much of it as provides for the exercise of this power on the part of Congress with reference to the election of United States Senators, we shall introduce into the Constitution, as I view it, an inconsistent and an altogether inharmonious condition.

The Constitution is entirely consistent and harmonious with itself. The Senator from Idaho [Mr. BORAH], interrupting the Senator from New York [Mr. ROOT] a few moments ago, called his attention to the fact that Congress had no power to regulate the time, place, or manner of the election of electors for President. That is true.

Mr. BORAH. Mr. President——

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Idaho?

Mr. SUTHERLAND. I do.

Mr. BORAH. The Senator from New York only addressed himself to the question of the "manner."

Mr. SUTHERLAND. The Constitution expressly provides respecting the time. The Senator is correct. He calls attention to the fact that the Constitution does not provide for the exercise of the supervisory power on the part of Congress over the manner of electing electors, but the Constitution does preserve the power of Congress over the action of the electors themselves. In other words, the Constitution all the way through preserves the power of the Government of the United States to regulate the ultimate electors of the officers for whose election provision is made. In the case of Representatives the people vote directly for the officer; they are the ultimate electors. So the Constitution preserves the supervisory power of Congress over the people, who in that instance are the electors. In the case of United States Senators the people are not the ultimate electors, but the legislatures of the various States are. So the Constitution preserves the supervisory control of Congress over those bodies as the ultimate electors. In the case of the President of the United States the electors, so called, are the ultimate elective power. So the Constitution preserves the authority of Congress over those electors. The whole system is entirely consistent and entirely harmonious.

Mr. BORAH. Mr. President——

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Idaho?

Mr. SUTHERLAND. I do.

Mr. BORAH. Mr. President, the Senator from New York [Mr. ROOT] was addressing himself to the question of the power under the Constitution to control elections for the purpose of insuring proper elections, and, with that end in view, I asked if it were not true that the legislatures prescribed the manner of electing electors. So far as the local election is concerned, the State legislature has absolute and exclusive control over the manner of electing electors. After the electors are elected they are in the same attitude that we are after elected. But, so far as the election of electors in the several States are concerned, to prescribe the manner of election, that is a matter which rests exclusively and alone with the legislature of the State.

Mr. SUTHERLAND. That is all quite true, but it in no manner, as it seems to me, affects the contention which I have made with reference to it.

Mr. BORAH. I think, Mr. President, that that is true, but I think it affects the proposition which the Senator from New York has made as to the manner of controlling a local election.

Mr. SUTHERLAND. The Senator from New York has demonstrated that he is quite capable of taking care of himself.

Mr. BORAH. I think that is true.

Mr. SUTHERLAND. I shall not undertake to do that for him.

The Senator from Mississippi [Mr. WILLIAMS] has said that the substitute offered by the Senator from Kansas [Mr. BRISTOW], while it ostensibly preserves the constitutional provision as it is, in reality makes a change in it. If I understand him, his position is that now, under the Constitution, Senators are not elected by a vote of the people, but are elected by the legislatures, and that, therefore, under the Constitution, Congress has no supervisory power over the acts of the voters themselves, and that by preserving this section 4 in the Constitution unaltered Congress will hereafter have an authority over the voters of the States which it does not now possess with relation to the election of United States Senators; but, as it seems to me, that argument is somewhat misleading and disingenuous. The Constitution provides that Congress shall have the supervisory control over the election of Representatives and the supervisory control over the election of Senators. The manner in which those different officers shall be elected has nothing whatever to do with the provision in the Constitution that the ultimate supervisory power shall exist in Congress; in other words, if the Constitution had provided in the beginning for the election of United States Senators by direct vote of the people, as it did for the election of Representatives by direct vote of the people, can there be the slightest doubt in the mind of anybody that the framers of the Constitution would have provided for the ultimate supervisory control of Congress over the election of Senators in that way precisely as it did over the election of Representatives?

Can any man give me any good reason why the supervisory control of Congress over the election of Representatives should be preserved when they are elected by the people and the supervisory control of Congress over the election of Senators should be destroyed when they are elected in precisely the same way? There is no change in principle. It is simply the application of an existing principle of the Constitution to new conditions.

We have illustrations of that in other parts of the Constitution. When the clause which gives Congress authority to regulate commerce among the several States was first adopted, it had no application to railroads; it had no application to tele-

graph lines; it had no application to telephones. Why? Because they were not in existence; but the moment those instrumentalities came into existence that provision of the Constitution applied to them of its own force at once. So, when this provision was put into the Constitution it was intended to operate irrespective of the manner of election, and when we provide for a new method of election the supervisory power of Congress already provided for in the Constitution at once and automatically attaches to that new condition of affairs.

The Senator from Mississippi [Mr. WILLIAMS] undertakes to find fault with the Senator from Kansas [Mr. BRISTOW] for having presented this substitute and made it impossible, according to his statement, for some Senators upon the other side to support it, and he warns the Senator from Kansas that it may result in the defeat of the joint resolution. I have no doubt in my own mind that if the substitute of the Senator from Kansas is not adopted it spells the defeat of this joint resolution—I do not mean necessarily in the Senate, but I mean before the country and before the legislatures of the country. If Senators who are in favor of giving up this supervisory control of Congress believe that the country is ready for it, let them present it by itself; let it stand upon its own feet; let it stand or fall by its own strength. I think if it should be separately proposed by Congress, not only would it not obtain a vote of three-fourths of the States of the Union, but it would not obtain the vote of a fourth of them.

Mr. RAYNER. Mr. President——

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Maryland?

Mr. SUTHERLAND. Certainly.

Mr. RAYNER. If the Senator will allow me, I intend, of course, to vote against the proposed amendment of the Senator from Kansas [Mr. BRISTOW], but I shall vote for the joint resolution, even if the amendment be adopted. I want to call the Senator's attention, however, to a remark he made, which, I think, will require some modification. He said that, in his judgment, the framers of the Constitution, if they had provided that Senators should be elected by the people, would have adopted this supervisory power. I want to call his attention, or, rather, his recollection, to the fact that New York and, if I remember aright, Rhode Island, Pennsylvania, and Massachusetts, in ratifying the Constitution adopted a provision in the act of ratification that, in the contemplation of those States ratifying it, never was intended to give Congress any such power as that; that the only power it was ever intended to confer upon Congress was the power to act when the States failed to act.

Now, just one word further. I will only take a moment. Let us look at New York. The preamble to the ratification in New York recited:

> In full confidence, nevertheless, that until a convention shall be called and convened for proposing amendments to the Constitution * * * that the Congress will not make or alter any regulation in this State respecting the times, places, and manner of holding elections for Senators and Representatives unless the legislature in this State shall neglect or refuse to make laws or regulations for the purpose, or from any circumstances be incapable of making the same, and that in those cases such power will duly be exercised until the legislature of this State shall make provisions in the premises.

Pennsylvania, in adopting the Constitution, provided:

> That Congress shall not have power to make or alter regulations concerning the time, place, and manner of electing Senators and Representatives, except in case of neglect or refusal by the State to make regulations for the purpose, and then only for such time as such neglect or refusal shall continue.

The State of Massachusetts did the same thing, as also did Rhode Island. I can not agree with the Senator's contention.

Mr. SUTHERLAND. There were a number of States which took that view.

Mr. RAYNER. The idea of this clause was that where the States failed to act Congress should act, but it never was intended and never was in the contemplation of the framers of the Constitution; and the Senator will, I think, never be able to find in the debates of that body any recognition of the principle that the authority of the Congress should supersede the regulations of the States.

One other word before the Senator sits down with reference to the electors. There is a specific power in the Constitution that the States shall have the right to appoint electors. The Constitution confers the right upon the States to appoint their own electors. It provides—

> Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in Congress.

There is no provision in the Constitution giving Congress supervisory power of the manner in which the States shall determine the matter or the regulations as to the election of electors.

Mr. SUTHERLAND. No; but over the action of electors when chosen the power of Congress has been preserved. The Constitution not only preserves the power of Congress, but provides how those electors shall discharge their duties.

Mr. RAYNER. But not their selection.

Mr. ROOT. Mr. President, will the Senator from Utah permit me to ask the Senator from Maryland a question?

Mr. SUTHERLAND. Certainly.

Mr. ROOT. What force does the Senator from Maryland give to the words "or alter such regulations"? Section 4, Article I, provides—

> But Congress may at any time by law make or alter such regulations.

How could they alter such regulations if their power was to exist only in case the State failed to make any?

Mr. RAYNER. I can answer that by saying that where the regulations were not sufficient for the purpose of accomplishing the purpose they intended the power attached. Mr. President, I do not think the Senator from New York will say, in looking over the debates in the Constitutional Convention, although, of course, it does not bear practically upon this question at all, and I do not care what the debates were in the Constitutional Convention now, I do not think he would say that it was the intention of the framers of the Constitution or that it was the intention of the States that ratified the Constitution that Congress should have a supervisory power over the election regulations of the States. That power was deemed to exist in Congress only when the States failed to send Senators here and Representatives to the House of Representatives, and the word "alter" meant when they did not sufficiently accomplish the purpose. The action in the New York convention, in the Pennsylvania convention, in the Rhode Island convention, in the Massachusetts convention, and in other conventions of other States that I do not now recall shows plainly that it was never the intention to give Congress the power that the Senator from Utah claims it would have been given if the Constitution had originally provided for the election of Senators by the people, and that the framers of the Constitution would not have conferred any such power upon Congress as the Senator from Utah now wants to confer upon it. Of course, Congress has exercised the power with the approval of the courts, but I am speaking now of what was within the contemplation of the ratifying States.

Mr. SUTHERLAND. I am entirely familiar with the resolutions to which the Senator from Maryland refers, but, with all due respect to him, they do not meet in any degree the contention that I am making. I care not whether the position of the Senator from Maryland is correct about it or my position is correct about it; my proposition is that the framers of the Constitution would have given Congress the same power, whatever it may be, of supervision over the election of Senators that it does give them under the Constitution if they had been elected by a direct vote of the people. It gave the Congress the ultimate supervisory control over the election of Representatives, and they were elected by the people; it gave the ultimate supervisory power over the election of United States Senators, and they were elected by the legislature; but if the Constitution had provided that Senators should be elected by the people, the same as Representatives were elected by the people, the framers of the Constitution would have given to Congress exactly the power which they had given them over the election of Representatives. That is my contention.

Mr. WILLIAMS. Mr. President——

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Mississippi?

Mr. SUTHERLAND. I yield to the Senator from Mississippi.

Mr. WILLIAMS. Does not the Senator from Utah admit that our forefathers and the Constitution regarded the Senators as peculiarly the representatives of the States—in a certain sense as ambassadors?

Mr. SUTHERLAND. I do not know that I quite understood the Senator.

Mr. WILLIAMS. I say, does not the Senator from Utah admit that our forefathers and that the Constitution contemplated the Senators as peculiarly the representatives of the States, the Senate itself as a body being representative of the State and not of the people of the State?

Mr. SUTHERLAND. The Senator is a representative——

Mr. WILLIAMS. Now, if that is the case, does the Senator think they would have made exactly the same rule for the Representatives elected by the people and for these men who in their view were in a sort of way ambassadors from the States?

Mr. SUTHERLAND. The Senator from Mississippi is a representative of his State in one sense, but a Senator represents the people of his State the same as a Representative

represents the people of his State. And beyond that a Senator is not only a representative of his State, but he is a Senator of the United States. He exercises——

Mr. WILLIAMS. What I am trying to get at, if the Senator will permit me, is this: Not in your contemplation nor more than in mine, for things have evolved since then very much, but whether in the contemplation of our forefathers the Senators were not the representatives of the States, of the corporate body, the State, more than of the people of the State.

Mr. SUTHERLAND. Well, let me concede that, then——

Mr. WILLIAMS. This body was inaugurated for the very preservation of the equality of the States, was it not?

Mr. SUTHERLAND. Let me concede that, at any rate, for the sake of argument, and what does the Senator make of it? Does the Senator think that because that distinction might exist Congress ought to preserve no control over the election of United States Senators while it does preserve control over the election of Representatives?

Mr. WILLIAMS. Yes——

Mr. SUTHERLAND. Does that constitute a reason for that distinction?

Mr. WILLIAMS. The reason for that distinction is just as when a congress of people meet. There are so many delegates, and the congress itself has no control over the delegates.

Mr. SUTHERLAND. I can not follow the Senator in that.

Mr. WILLIAMS. I am saying that because you went back historically to the beginning; and if we are to go back, I should like to go back to the atmosphere that surrounded those people. Of course I admit, as a matter of fact, in the course of historical evolution that the very nature of institutions change because of the nature of new demands made upon them.

Mr. RAYNER. Will the Senator yield to me?

Mr. SUTHERLAND. If the Senator will let me have just a moment, I will yield to him.

To my mind, if there can be a distinction, there is more reason for the preservation of the supervisory control of Congress over United States Senators than over Representatives, because——

Mr. WILLIAMS rose.

Mr. SUTHERLAND. If the Senator will hear me through—because a Senator of the United States, while he may be, as the Senator says, a representative of the State, is more a representative of the United States than is a Member of the House. The Representative, the Member of the House of Representatives, has nothing to do with the question of treaties. He has nothing to do with the confirmation of appointees to Federal positions and ambassadors to foreign governments. The Senator of the United States passes upon treaties with foreign governments. A Senator of the United States advises and consents to the appointment of the judges, ambassadors, and all the other officers of the United States.

Mr. WILLIAMS. Yes; I understand that.

Mr. SUTHERLAND. In that condition, can it be said that the Government of the United States should absolutely yield to the States its control over the election of such an officer, who discharges these important functions of the National Government?

Mr. WILLIAMS. And from their standpoint at that time one of the very reasons why they gave all these extraordinary powers to the Senate was that the Senate was peculiarly representative of the equality of the States.

Now, right here one other question. The Senator from New York [Mr. ROOT] says that he wants to add to the present powers of the General Government this right to be present at the polls in a State when the Senator is elected.

Mr. ROOT. To retain it.

Mr. WILLIAMS. That is my standpoint. Of course, his standpoint is that he is keeping things as they are. He says that one reason why the Federal Government must do that is because it must continue its own existence in the Senate and that New York must have her Senator here.

I want to ask the Senator if, under the present condition of things, there is any way under the sun to compel Colorado to send a Senator here?

Mr. SUTHERLAND. Absolutely none.

Mr. WILLIAMS. None under the sun. So that the argument which he makes there is no more against the condition of things that would exist if the joint resolution of the committee should pass than it is at present.

Mr. RAYNER. The Senator from Utah has been very liberal in allowing interruptions. Will the Senator permit me?

Mr. SUTHERLAND. I will yield to the Senator briefly.

Mr. RAYNER. I object on general principles to interpretations of the Constitution which, in my opinion, were not sanctioned at all at the time it was adopted. The best way to get at what the Constitution means is to get at what the States meant when they ratified it. Nine out of the 13 States in their articles of ratification held that this clause does not mean what the Senator from Utah says it does mean. The records of the other 4 States have been lost, but I have no doubt they would follow in the same line. It will not take me a moment——

Mr. SUTHERLAND. Let me ask the Senator right here, whatever it means, why destroy the power?

Mr. RAYNER. Because it means just exactly what we say it means. We give the State the right to provide for the manner of electing Senators. And that is exactly what it meant, unless the States decline to act.

Mr. SUTHERLAND. Mr. President——

Mr. RAYNER. Just a moment, and then I shall have finished. I will just read this—it is only a few lines—and then I will not detain the Senator.

The matter has always been so clear to me that I do not like to have a statement made upon the floor of the Senate contrary to what I think the framers of the Constitution meant. Here is what the State of South Carolina said:

> And whereas it is essential to the preservation of the rights reserved to the several States, and the freedom of the people, under the operation of a General Government that the right of prescribing the manner, time, and places of holding the elections to the Federal Legislature should be forever inseparably annexed to the sovereignty of the several States, this convention doth declare that the same ought to remain to all posterity a perpetual and fundamental right in the local, exclusive of the interference of the General Government, except in cases where the legislatures of the States shall refuse or neglect to perform and fulfill the same according to the tenor of said constitution.

Now, Virginia said:

> That Congress shall not alter, modify, or interfere in the times, places, and manner of holding elections for Senators and Representatives, or either of them, except when the legislature of any State shall neglect, refuse, or be disabled by invasion or rebellion to prescribe the same.

You have nine States. I never have had any doubt after a most careful examination as to the proposition that if the records of the other four States could be found they would substantiate the declaration in the ratification of these States. At least we have the records of nine of them, every one of them giving is as the opinion of the ratifying convention that it never was intended to repose in Congress the power that Congress has unlawfully exercised in regard to the matter.

The Senator from Georgia [Mr. BACON] at the last session of Congress cited these various acts of ratification to which I have referred and demonstrated the proposition that I am now contending for.

Mr. NELSON. Will the Senator yield to me for a moment?

Mr. SUTHERLAND. Yes.

Mr. NELSON. The unfortunate thing, Mr. President, with the position of the Senator from Maryland is that if this paragraph is amended, whether the legislature acts or fails to act, in any event the Congress of the United States will have absolutely no power, and therefore the statement made by the Senator from Maryland is not germane and has no force, because the original joint resolution does not even give the Congress the power to act when the legislature utterly fails. Here is the language, and the only language, left in the original joint resolution:

> The times, places, and manner of holding elections for Senators shall be prescribed in each State by the legislature thereof.

There is no proviso here giving Congress the power to act in case the legislature fails to act.

Mr. RAYNER. The Senator from Minnesota is contesting with a shadow. There is not the slightest possibility of a State declining to send a Senator to the Senate of the United States. There was danger at the time the Constitution was adopted. There is not now the slightest practical danger of a State not sending a Senator here.

Mr. HEYBURN. Will the Senator permit me?

Mr. RAYNER. I will permit an interruption, but the Senator from Utah has the floor.

The VICE PRESIDENT. The Senator from Utah has the floor.

Mr. RAYNER. I am talking about the intention of the framers of the Constitution. The Senator from Utah says it was the intention to give Congress a supervisory power. I know very well they have exercised a supervisory power, but I say when you look over the ratification of the States you can come to but one conclusion, and that is that it never was the intent of the framers of the Constitution; and let me say another thing, that the Constitution never would have been raified if the States had believed that that was the intention.

Mr. HEYBURN. I want to ask the Senator from Maryland a question, with the permission of the Senator from Utah.

The Senator from Maryland made the assertion that there was not the slightest danger that any State would ever fail or refuse to send representatives to the Congress of the United States. The history of the United States discredits that assertion.

Mr. RAYNER. I do not think it does, Mr. President. I should like the Senator to point out where it discredits it. It does not discredit it in the case of the State of Idaho.

Mr. HEYBURN. Well, Mr. President, there were certain years in the history of this country when certain States did not send representatives here.

Mr. RAYNER. And there were certain years in the history of the country when the Senate turned down Senators who were sent here and put in Senators who were never lawfully elected to the Senate.

Mr. HEYBURN. I was merely referring to the statement of the Senator—that such conditions could never exist.

Mr. BORAH. Will the Senator from Utah permit me to make just a suggestion here, because it illustrates what I may say is an exaggeration of the effect of section 4? At the time that the States did fail to send Senators here, of what earthly use was section 4 to the United States? We did not exercise any power under it. We could not exercise any power under it. It was utterly useless to accomplish anything which now by imagination it is suggested might be accomplished.

Mr. NELSON. May I ask the Senator a question?

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Minnesota?

Mr. SUTHERLAND. Yes.

Mr. NELSON. Of what earthly use was the Constitution anywhere—any part of it—during the Civil War?

Mr. BORAH. Well, I think it served a very good use. It held us together up here. But this particular section was never intended to give us the power to go into the States and elect Senators, and we have not that power now.

Mr. HEYBURN. Mr. President——

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Idaho?

Mr. BORAH. I hope he will.

Mr. SUTHERLAND. Yes; I yield to the Senator.

Mr. HEYBURN. There is in the Constitution a process of compelling the election of Senators and Representatives, which was adopted at that time, and it was an effective process. It took a little while to do it, but the Government of the United States compelled those States to resume the functions of statehood and send their representatives here. It was only a question of how they would do it, and they adopted the only method of doing it.

Mr. BORAH. Mr. President——

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Idaho?

Mr. SUTHERLAND. I will yield to the Senator from Idaho, and then I must proceed.

Mr. BORAH. I assert that never at any time did the Congress of the United States undertake to exercise any power under this section to compel any State to elect a Senator or a Representative.

That statement has been made here on the floor time and time again, and I challenge any Senator to point to a single instance, to a single statute, or a single proceeding under section 4 of the Constitution looking to the accomplishment of that purpose.

Mr. HEYBURN. I can refer you to one.

Mr. LODGE. Will the Senator yield to me?

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Massachusetts?

Mr. HEYBURN. If I may be permitted here, I think——

Mr. SUTHERLAND. Mr. President, I think——

The VICE PRESIDENT. The Senator from Utah has the floor. To whom does he yield?

Mr. SUTHERLAND. This whole discussion is aside——

Mr. HEYBURN. Three words will answer.

Mr. SUTHERLAND. I will yield to the Senator, but I hope he will be brief.

Mr. HEYBURN. By processes of martial law it made a government for these States.

Mr. LODGE, Mr. RAYNER, and others addressed the Chair.

The VICE PRESIDENT. The Senator from Utah has the floor.

Mr. SUTHERLAND. I must decline to yield further.

The VICE PRESIDENT. The Senator from Utah declines to yield further. The Senate will please be in order.

Mr. SUTHERLAND. I yield to the Senator from Massachusetts.

Mr. RAYNER. I only wanted to say to the Senator that martial law is no law at all.

The VICE PRESIDENT. The Senator has not yielded to the Senator from Maryland. He yielded to the Senator from Massachusetts.

Mr. LODGE. I will detain the Senator but a moment. I only wanted to say that it seems to me Senators forget the origin of those provisions. They were put in because toward the close of the Revolution the States failed to send delegates, in many cases, to the Continental Congress, and during the Confederation they absolutely brought the Government to a standstill by their failure to provide representation at the seat of government, and this was put in to prevent the new Government from being paralyzed in that way.

Mr. SUTHERLAND. I desire to get back to the point where I was when the storm broke.

The Senator from Maryland has called attention to the resolutions passed by several of the States in which in substance they declared that this clause of section 4 was only intended to operate in case the States failed to act. Now, I care not whether that was the view of the framers of the Constitution or the view of those who ratified the Constitution. The point that I was making to the Senator was that whatever their view of the scope and meaning of this provision was they intended it should operate upon the election of Representatives and United States Senators, whether they were elected by the people or by the legislature. Whether you give it a broad application or a limited application, they did not intend to make a distinction as to the power which should be exercised based upon the manner in which the Senator or the Representative should be elected. But if that was the original intention of the framers and that was the view of these States it has been construed to have a broader operation during the 124 years of the existence of the Republic, and the people of the United States during that 124 years have been quite content to leave that provision in the Constitution with that broad interpretation of it.

Now, Mr. President, it has been suggested that even if we eliminate this clause of section 4 from the Constitution the power will still exist in Congress to regulate the manner of the election of United States Senators, under the general provisions of the Constitution. I do not agree with that view. I think if we provide in express terms by an amendment to the Constitution that the legislatures of the States shall be given the authority to make regulations as to the times, place, and manner of election of Senators, that will constitute the last expression of the people's will upon that subject.

The language is exclusive. It is specific. It confers upon that one agency the power to do this thing; and the rule of statutory construction is too well settled to admit of dispute, that when we have conferred a specific power, in exclusive terms, upon one agent, we, by that very act, deny it to any other agent. I can not understand——

Mr. BORAH. Mr. President——

Mr. SUTHERLAND. Just a moment. I can not understand how, when we shall have conferred the express, positive, and exclusive power upon the State governments, any power to do that same thing can remain in the General Government under any general language of the Constitution.

Now I will yield to the Senator from Idaho.

Mr. BORAH. Mr. President, the Supreme Court has said in the case of McPherson *v.* Blacker, with which the Senator is familiar:

> Under the second clause of Article II of the Constitution, the legislatures of the several States have exclusive power to direct the manner in which the electors of President and Vice President shall be appointed.

The Congress has from time to time passed certain acts protecting elections with reference to Representatives and Senators and electors, and the Supreme Court has sustained those acts, when sustained at all, upon other grounds and according to other powers than that found in section 4.

Mr. SUTHERLAND. In what case did the Supreme Court say that?

Mr. BORAH. In one of the cases which the minority cited in their views.

Mr. SUTHERLAND. The Siebold case?

Mr. BORAH. No; the Yarborough case.

Mr. SUTHERLAND. I must entirely disagree with the Senator with regard to that. The Yarborough case is based upon the Siebold case, in One hundredth United States, and the Siebold case expressly holds that the act which was passed was under clause 4 of Article I of the Constitution.

Mr. BORAH. I will read the section to the Senator, and I will submit to him here on the floor whether he thinks that section was based on section 4.

Mr. SUTHERLAND. The Senator is referring to the act of 1872. I would not undertake to say that every section was passed under that clause. There may have been some sections that were not.

Mr. BORAH. But the section which the court was construing was section 5508. It was not passed by virtue of section 4, and the court did not undertake to uphold it by reason of section 4.

Mr. SUTHERLAND. What I say about it is this: Heretofore the express power has rested in Congress, in the last analysis, to supervise the time and manner of the election of Senators. If the people of the United States, in effect, repeal that provision, take it out of the Constitution, so that it shall no longer exist in the Constitution, and confer in exclusive terms that identical power upon the State legislatures, I can not understand under what rule of construction it could possibly be held that the power would still exist in the General Government as it exists now. It will be taken away in express terms and expressly conferred upon somebody else, and it can not at the same time be taken away and still exist, as it seems to me.

Now, Mr. President, I want to hurry along and get through, because it is not only getting late, but it is continuing warm.

This power has been exercised from time to time, and necessarily exercised, by the General Government. It passed at one time—I do not recall the exact date of it—a law which fixed the uniform time for the holding of elections. That was a necessary law. It could not have been passed so far as United States Senators are concerned if the joint resolution advocated by the Senator from Idaho had been in force.

We passed at a later time a provision with reference to the character of the ballot, providing that the ballot should be written or printed. Those laws have a uniform operation throughout the United States. Without the provision for a printed ballot it would have been entirely competent for a State to have provided for an election by a viva voce vote.

We provided for the use of the voting machine by a later act. The act of 1872, while perhaps not entirely based upon that clause, was at least in part based upon it, as the Supreme Court held in the case to which I have already referred.

Now, there is one other thing that I desire to call attention to in this connection, and that is that the burden of proof in this matter is upon those who undertake to change the existing provision of the Constitution. It is for them to show that no harm would result. It is indeed for them to show more than that—not only that no harm will result from it, but that some positive good is to result from this amendment to the Constitution. It does not seem to me that that has been done or attempted up to this moment.

If we amend the Constitution in this particular, however unwise it may be hereafter found to be, no matter what embarrassment the change may occasion to the General Government, it will be utterly impossible for us to retrace our steps. We can prevent its being done. One-fourth of the States of the Union may prevent this change from being made; but when it has once been made, no matter how important the restoration of the provision may be made hereafter to appear, it will be impossible to put it back into the Constitution except by a vote of three-fourths of the States, and that probably never could be obtained.

Something was said in a former debate on this question to the effect that the several States may be trusted to see that the elections are fairly conducted, their purity preserved, and their freedom from sinister influences guaranteed and protected. I do not doubt, and I think no one doubts, the truth of this assertion under the normal conditions which prevail to-day; but the Constitution is made, not for to-day alone, or for a month hence, or a year hence, but for a vastly expanding and constantly changing future, the nature and extent of which no man can with any degree of certainty predict.

We may indulge the hope, we may believe, that no occasion will ever arise for the exercise of the ultimate authority of Congress in this regard, and yet we can not with safety close our eyes to the fact that occasion has arisen in the past, and that what has happened may happen again. This authority of Congress will be and should be exercised sparingly in the future, as it has been exercised sparingly in the past.

The Constitution, by devolving upon the States the primary duty and responsibility, clearly contemplates that Congress shall not intervene so long as normal and healthful political conditions prevail, but who among us is so wise as to know that these normal and healthful conditions will always continue?

True, the States are interested in the election of Senators, but has the Nation no interest? The interest of the States is one of great importance, but that of the Nation is vital. If the retention of this ultimate supervising power in the Nation be an expression of distrust in the State governments, which it is not, will not its elimination express a loss of confidence in the wisdom and fairness of the National Government?

The Nation is simply the whole of which the States constitute the integral parts. We are an "indissoluble Union of indissoluble States." If in a Nation so constituted there are degrees of fidelity, surely the whole may be trusted to preserve the integrity of the various parts more safely than each of the several parts may be relied upon to preserve the integrity of the whole.

There is the one tremendous lesson of our history—some of the States once sought to dismember the Union, but the Union has never sought and will never seek to dismember itself. I am for preserving the power of the Nation unimpaired and undiminished, not for the normal ordinary days when the power may safely remain uninvoked, but for that rare and exceptional day of stress when its exercise shall become of imperious and overshadowing necessity—when the strong, supervising, compelling hand of the Federal Government not only may but must stretch forth to preserve it from disaster or from destruction.

Mr. BORAH. The Senator from Wisconsin [Mr. LA FOLLETTE] is on the floor, and as he perhaps desires to proceed under his notice of yesterday, I am going to have the joint resolution laid aside temporarily, but before doing so I move that when the Senate adjourns to-day it be to meet to-morrow at 12 o'clock.

The VICE PRESIDENT. The Senator from Idaho moves that when the Senate adjourns to-day it be to meet at 12 o'clock to-morrow.

The motion was agreed to.

Mr. BORAH. I ask that the unfinished business be temporarily laid aside.

The VICE PRESIDENT. The Senator from Idaho asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? No objection is heard.

SENATOR FROM ILLINOIS.

The VICE PRESIDENT. Without objection, the Chair will lay before the Senate the following resolution.

The SECRETARY. Table Calendar 4, Senate resolution by Mr. LA FOLLETTE. A resolution (S. Res. 6) to appoint a special committee to investigate certain charges relative to the election of WILLIAM LORIMER.

Mr. LA FOLLETTE. Mr. President, when I concluded last evening speaking upon the resolution which I introduced, I had reviewed the leading facts of the case upon which the Senate passed on the 1st of March, 1911. I did not pretend, except in the briefest possible way, to make any summing up of the testimony submitted at that time; but I felt that in calling upon the Senate to reopen this case a backward glance over the important material facts upon which the Senate did pass was necessary and proper.

I briefly reviewed the case from the beginning down to the time when the Senate entered its judgment, by a vote of 46 to 40, in favor of the sitting Member.

I believed then, Mr. President, that this judgment was wrong. I believed that it would not stand. Senators may remember that when request was made here on one occasion to fix a time for a vote in the Lorimer case, I objected, and said I had reason for doing so.

I believed, Mr. President, that all the testimony in this case had not been secured. I am now sure, Mr. President, that all the testimony in this case had not been taken at that time, and I am equally sure that all the testimony in this case has not yet been recorded in any forum. I remember saying a few moments before a vote was taken, that this case would come back again to this Senate. I felt sure of that; and it is here to-day; and I am here, Mr. President, to ask that the Lorimer case be reopened.

It is a matter of common knowledge that the people of the State particularly interested, the State of Illinois, and the people of the whole country, did not accept the judgment which we entered on the 1st day of March last. They rejected it at once with almost one voice. From all over the country protests came against the action of the Senate.

Mr. President, nothing is ever really settled until it is rightly settled. It may seem to be settled. We may think in our imperfect human way that we have disposed of it, but it will come back to confront us. It is God's law of everlasting righteousness demanding judgment. As the law of gravity always pulls to make things plumb, so the eternal law of right goes on and on forever, exercising its tremendous, unending, immutable decree that right shall prevail.

Following the decision which we entered in this case, I gathered together as best I could the public opinion of this country as recorded in the public press of the country. I caused to be

clipped from every paper that could be reached the comment upon the action of the Senate. I did it, Mr. President, with a view of presenting it here. I have it. I can not present it without violating the rule of the Senate which provides that there shall be nothing uttered in debate which "directly or indirectly by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator."

Sir, out of 117 editorials representing leading papers in all sections of the country there is not one that does not reflect most severely upon the action of the Senate in the Lorimer case and upon the motives of many Senators who voted to confirm LORIMER's title to a seat in this body. In view of the rule I merely call attention to the fact that the judgment of the Senate was not in accord with the judgment of the press.

Mr. President, I know that Senators—some Senators have expressed from time to time a feeling of indifference as to public opinion. Now, I do not think this great body ought to yield its judgment to any spasmodic manifestation of temper which may sweep over this country, but, Mr. President, taken by and large, public opinion in this country is right; public opinion is conservative, and I think it would be well for the Senate of the United States to look at itself from time to time in that great mirror, public opinion.

We complain sometimes here because we think that the so-called muckraking and uplift magazines and reform criticism present to the public a distorted and imperfect characterization of the Senate of the United States. But, Mr. President, for my part, I never have had any fear of the criticism magazines or newspapers may make of this body. I never have believed that it is possible for them to make any lasting impression as to the character of the Senate unless they print the exact truth about the Senate. That is the only thing the Senate need be apprehensive about.

What may be said outside of this Chamber, Mr. President, is not important excepting as it is a record of comment upon what actually transpires in this Chamber. What we ourselves, as Senators, do is important. What the newspapers and magazines say we do is of no consequence unless it be true. Then, sir, it is vitally important, because it is the basis for a real, lasting public opinion. And so I say, Mr. President, that the well-considered judgment of the press and the periodicals of this country on public men and public affairs goes to the making of the history of the country, and, taken as a whole, this collective editorial judgment of the Senate of the United States and the House of Representatives and the administrative officers of Government is generally in accord with what they deserve.

I am here to ask the Senate of the United States to reconsider this judgment, to reopen this "Lorimer case." I do not believe I need cite any authority. I will, however, bring to your attention the case of HENRY A. DU PONT, of Delaware, Senate Election Cases, page 873, where, in a report made, in which Gray and Turpie and Pugh and Palmer and Hoar and Chandler and Pritchard and Burrows joined, I find this:

> We do not doubt that the Senate, like other courts, may review its own judgments where new evidence has been discovered, or where, by reason of fraud or accident, it appears that the judgment ought to be reviewed. The remedy which in other courts may be given by writs of review or error or bills of review may doubtless be given here by a simple vote reversing the first adjudication. We have no doubt that a legal doctrine involved in a former judgment of the Senate may be overruled in later cases.

Now, Mr. President, I am prepared to offer to the Senate reasons why this judgment should be reopened, why the Senate should review the findings that it made in the Lorimer case on the 1st of March.

The majority report of the Senate Committee on Privileges and Elections, made in December to the Senate, approved the title of Mr. LORIMER to a seat in this body. That was an announcement to the people of the country, and particularly to the people of Illinois, which, I suppose, led them to believe that this committee would do all in its power in this Chamber to give validity to the title of WILLIAM LORIMER to a place here as the representative of the State of Illinois.

Mr. President, acting upon that information and that belief, they proceeded to organize in the Senate of the Illinois Legislature an investigation of their own. Manifestly they were not ready, sir, to accept the judgment of that committee; they did not believe that WILLIAM LORIMER ought to represent that great State on this floor. So, on the 17th day of January, 1911, the Illinois State Senate adopted the following resolution:

> Whereas certain official misconduct on the part of certain members of the senate has been charged, wherein it is alleged that certain senators have violated their oaths of office in that they have knowingly and intentionally paid, contributed, or received something, or have made or received some promise or promises, in the nature of a bribe, with intent to influence, directly or indirectly, the official action of a member or members of the general assembly: Now, therefore,
>
> *Resolved*, That the committee heretofore appointed, consisting of Senators Helm, Hay, McKenzie, Ettelson, and Burton, are hereby authorized, directed, and empowered to investigate and report to the senate concerning the alleged acts of bribery and official misconduct of members of this or the preceding general assembly.
>
> And in reference to such investigation said committee is hereby authorized and empowered to send for and subpœna persons to appear before it as witnesses and to compel such witnesses to testify, and to compel the production of documents and other papers; to administer oaths, to take testimony, and to employ, in its discretion, if it deems it essential, counsel, a clerk, stenographer, and other assistants; and
>
> All processes issued by the chairman of said committee shall be served by the sergeant at arms of the senate or his assistants.
>
> And said committee shall meet at such times and places as shall best serve its purposes.
>
> *Further resolved*, That the members of said committee shall be allowed their actual traveling expenses, and any persons employed to assist the committee shall be paid reasonable compensation out of the appropriations made by the senate.
>
> *Further resolved*, That this resolution be entered nunc pro tunc, as and for Senate Resolution No. 5.

Pursuant to that resolution, Mr. President, the senate committee of the Illinois Legislature organized and began its work of investigation. I want to take the time of the Senate to place before it so much of the results of that investigation as, it seems to me, has a material bearing upon the reopening of this case.

It appears, Mr. President, that one of the Chicago newspapers, the Record-Herald, had charged specifically in an editorial that a fund had been raised to purchase votes to secure the election of Mr. LORIMER to the Senate of the United States. The publication of the editorial led the Illinois senate committee to summon the editor of that paper.

Let me inject a word of explanation here, Mr. President. I requested that certified copies of the minutes of the testimony, taken by the committee, be furnished to me. I have before me here all the record evidence taken by that committee, except, I believe, that of the first session, containing the testimony of the editor of the Chicago Record-Herald, Mr. Kohlsaat, on the occasion of his first appearance as a witness before that committee, March 29, 1911. It was brief. I therefore state, as best I can from the press accounts, in substance, the testimony given on that occasion by Mr. Kohlsaat.

Summoned before the committee, he was asked to state upon what information he had published, editorially, the statement that a fund of $100,000 had been raised and expended to bring about the election of WILLIAM LORIMER. Mr. Kohlsaat refused to answer. He told the committee he had been informed that such a fund had been raised. When asked for the name of his informant, however, he declined to give it upon the ground that the information had been received in the strictest confidence and that he could not, without violating that confidence, make the disclosure. The committee then adjourned, after requesting Mr. Kohlsaat to reconsider the matter and reappear at a later meeting of the committee. Before the next meeting, Mr. Kohlsaat telegraphed the chairman of the committee that he had been released from his pledge of confidence and could, if desired, give the name of his informant. The committee called on Mr. Kohlsaat to name the man. Mr. Kohlsaat then appeared and testified that he had received his information from Mr. Funk, the general manager, I believe, of the International Harvester Co.

Mr. Funk, upon being called before the committee, testified to a conversation with one Edward Hines, of the Edward Hines Lumber Co. This conversation between Mr. Funk and Edward Hines had taken place shortly after WILLIAM LORIMER had been elected United States Senator. Mr. Funk testified that he met Mr. Hines in the Union League Club of Chicago; that Hines stopped Funk as he was coming down from the lunch room and talked to him in the lounging room. The following, in so far as I quote at all, is Mr. Funk's statement of the conversation:

> He (Hines) said I was just the fellow he had been looking for or trying to see, and said he wanted to talk to me a minute. So we went and sat down on one of the leather couches there on the side of the room, and without any preliminaries, and quite as a matter of course, he said, "Well, we put LORIMER over down at Springfield, but it cost us about a hundred thousand dollars to do it." Then he went on to say that they had had to act quickly when the time came; that they had had no chance to consult anyone beforehand. I think his words were these: "We had to act quickly when the time came, so we put up the money." Then he said, "We—now we are seeing some of our friends so as to get it fixed up." He says they had advanced the money, that they were now seeing several people, whom they thought would be interested, to get them to reimburse them. I asked him why he came to us. I said, "Why do you come to us?" meaning the Harvester Co. He said, "Well, you people are just as much interested as any of us in having the right kind of a man at Washington." "Well," I said. I think I replied and said, "We won't have anything to do with that matter at all." He said, "Why not?" I said, "Simply because we are not in that sort of business." And we had some aimless discussion back and forth, and I remember I asked him how much he was getting from his different friends. He said, "Well, of course, we can only go to a few big people; but if about 10 of us will put up $10,000 apiece that will clean it up." That is the substance of the conversation.

With some reluctance Mr. Funk testified that Hines told him to "send the money to Ed Tilden."

Within a day or two after this conversation with Hines Mr. Funk reported what Hines had said to both Mr. Cyrus H.

McCormick, president of the International Harvester Co., and to Edgar A. Bancroft, general counsel for the Harvester Co. Mr. McCormick said, "Good; I am very glad you turned him down promptly."

I think it was something like a year after this conversation with Hines and shortly after the publication of Assemblyman White's exposure of the Lorimer bribery matter that Funk informed Kohlsaat of what Hines had said to him, but Mr. Funk, as shown by the testimony, was very prompt in reporting what had taken place between himself and Hines to the principal officials of his company.

In February, 1911, Mr. Hines came to Mr. Funk's office. This was a day or two after an editorial appeared in the Chicago Record-Herald making specific reference to a $100,000 corruption fund.

Mark this: After Mr. Hines had made this statement to Mr. Funk and Mr. Funk had reported it to the president and the general counsel of the company for which he worked, after months had passed by and the country was stirred by disclosures in the Lorimer case, Mr. Funk had met Mr. Kohlsaat and said to him, in substance, "I know there was a great fund raised; at least, I was asked to make a contribution of $10,000 to help make up a hundred thousand dollar fund that was used in this case." That gave rise to the publication of this editorial, and the publication of the editorial in February, 1911—just last February—gave Mr. Hines, for the first time, notice that his talk about pulling off LORIMER's election had found its way into the public prints. This made him uneasy.

Now, see what he did. Sitting around me here this afternoon are many lawyers who will at once recognize Mr. Hines's next step as indicative of the man who is fearful of being caught. He hustles about to see whether he can not in some way correct—not correct, but pervert—the recollection of the men with whom he had perhaps been careless in his conversation. See what Hines did. I quote now from the testimony of Mr. Funk:

Q. What conversation did you have with him [Hines] upon that occasion?—A. Well, he was very much disturbed at that time and undertook to refresh my memory as to what our conversation had been. * * * I can not repeat his language exactly, but in substance it was to the effect that his former conversation with me had been merely a general discussion of the situation down there, and that he had not asked me for any money, and that he did not know anything about any money having been raised. * * *

The trick is an old one. You will observe Mr. Hines resorting to this same practice, which is the mark of guilt always, at other stages in this case:

Q. And did he pretend to have any other business or any other thing to discuss with you when he came to your office in February, 1911?—A. No.

Mr. President, how indicative that is of the guilty mind. The moment Hines saw that publication he began to think of the men with whom he had conversed upon this subject, with whom he had been somewhat boastful, perhaps, as it appears he was on some occasions when he was not looking for contributions, and he began to think of the men to whom he had gone to secure contributions. He remembered that this man, Mr. Funk, general manager of the Harvester Co., was one of the men to whom he had applied. We have not the testimony, but I have no doubt that Hines took the back track and visited as promptly as possible all other men with whom he had talked and to whom he had gone for contributions. The editorial in the Chicago Record-Herald was proof positive to Hines that there had been a "leak" somewhere.

Mr. OWEN. The editorial did not mention him?

Mr. LA FOLLETTE. Oh, no; it did not mention Mr. Hines; it did not mention any name; it just stated that it was known that a $100,000 fund had been raised to elect LORIMER—a plainly libelous editorial if it were not true. But Mr. Hines immediately hastens to Mr. Funk and says, "Now, you remember we had a talk, and about all I said was so and so and so and so," and he attempts to blur the recollection of this man as to that conversation. I say the trick is an old one. Any man who has had experience in trial work will recognize it at once. You will find it running all the way through this case. O Mr. President, this is one of the plainest cases that I have ever reviewed. I ask you to listen for a moment to a brief reference to the testimony of another witness.

Mr. Herman H. Hettler, of the Hettler Lumber Co., admitted having had some conversation with Edward Hines in reference to the senatorial election of 1909 at the Union League Club. (Employees of the club were present and in a position to hear what transpired.) He met Hines by the cigar stand in the outer hall by accident:

I stepped into the Union League Club on the day of the election just mentioned. I was about to buy some cigars, as I was leaving that day for Toronto. I was leaning over the cigar case talking with the cigar man and making the selections when—rather intent—when some one touched me on the shoulder, and turning around, I saw it was Mr. Hines, who was very enthusiastic, and apparently in a happy frame of mind, and stated, "Do you know the name of your new Senator?" * * * I looked at him before I made any reply, and he says, "I just come out of the telephone booth, just a minute," pointing to the booth, "I have just been talking to him." He says, "LORIMER has been elected. And," he says, "I am feeling very happy over it," which was plain to be seen by his actions. He says, "I elected him. I did it myself personally."

Now, I take you for a moment to some facts which developed on a railroad train. William Burgess, of Duluth, Minn., manager and treasurer of the Burgess Electrical Co., testified that in March, 1911, he was present at a conversation on the Winnipeg Flyer, a train running between Duluth and Virginia, Minn., at which was discussed "the election of an Illinois Senator." This conversation occurred in the smoking room of the Winnipeg sleeper. A man named Johnson, of the Northwestern Lumberman; Rudolph Weyerhaeuser; John Weyerhaeuser; and "I think" Carl Weyerhaeuser; Samuel J. Cusson, manager of the Virginia & Rainy Lake Lumber Co.; and C. F. Wiehe were in the smoking compartment on that trip. The C. F. Wiehe referred to is secretary of the Edward Hines Lumber Co. and the brother-in-law of Hines.

Now, I quote from Mr. Burgess's testimony:

A. I can not remember how the conversation started in regard to the election of Mr. LORIMER any more than I made some remark disparaging to Mr. LORIMER's election—

These men were grouped about in the smoking compartment and fell into conversation. This Lorimer case was in all the papers. It was most natural that it should come up in that casual meeting—

What that remark was I do not remember. And Mr. Wiehe immediately took the cudgel up and wanted to know what I knew about Mr. LORIMER's election, and I told him that the only thing that I knew about Mr. LORIMER's election was what I had read in the papers. He wanted to know if I got my information from the—I think he said the Chicago Record—Record-Herald—whatever the paper is—

Perhaps he said the Chicago Tribune; I do not know—

I told him no; that I got it from the local papers in Duluth, the Evening Herald and News-Tribune, and the Chicago Examiner; and he made the remark that I "did not know very damn much about it." And the conversation started, and he made—I told him that it was credited around the country that Mr. LORIMER had used a considerable amount of money to secure his election, and he said that Mr. LORIMER had not used a dollar of his own money for his election. And the conversation kept on. He started in to tell me how Mr. LORIMER was elected, and finally he made this statement: "There was a jack pot raised to elect Mr. LORIMER; I know what I am talking about, because I subscribed $10,000 to it myself."

Mr. OWEN. A brother-in-law.

Mr. LA FOLLETTE. A brother-in-law of Mr. Edward Hines.

Now, it is not any bolder or more audacious than a dozen statements made by Edward Hines that will be proven by a score of witnesses if this case is ever reopened and tried by the Senate.

Q. Was anything said about the General Assembly of Illinois in that conversation?—A. He did make this remark that it was impossible to get anything of merit through the Illinois Legislature without the use of money.

Burgess testified that the only one of the persons whom he named as being on that train, who was present during his conversation with Wiehe, was a young man from Regina, Canadian Northwest, with whom Burgess got into conversation after Wiehe left the smoking compartment, but whose name Burgess did not remember.

Burgess repeated his conversation with Wiehe the next day to two men; one of them was Mr. Bailey—W. T. Bailey, a lumberman from Duluth, who was in the lumber business at Virginia—and the other was Mr. W. H. Cook.

Mr. Burgess testified:

I went into the hotel that night, and when I asked Mr. Bailey who this gentleman (Wiehe) was, he told me. I told him about the conversation I had on the train.

When Burgess left Virginia on the Winnipeg Flyer the following Wednesday morning, he repeated Mr. Wiehe's statement about the $10,000 contribution to the Lorimer election fund to a Mr. Cook.

There appeared before this committee, at the request of Mr. Wiehe, two or three of the gentlemen who were on that train; friends whom he called to sustain him in his statement that he did not have such a conversation with Mr. Burgess. If this case is ever reopened, and Mr. Burgess comes before a Senate committee to testify, I have no doubt, from information which has come to me, as to the reliability which the Senate will attach to Mr. Burgess's testimony.

B. A. Johnson, of Chicago, for 25 years general staff representative of the American Lumberman, a newspaper, testified that he was in the smoking compartment of the Winnipeg Flyer on the night mentioned in Burgess's testimony, when Wiehe talked to Burgess about the "slop fund." He went into the compartment soon after the train left Duluth, smoked a cigar, and left after finishing his smoke, which was in about "25 or 30

minutes." When asked who was in the compartment when he left, he replied: "A gentleman whom I afterwards learned was William Burgess."

He testified that Mr. Wiehe had telegraphed to him to come to Springfield to testify regarding what took place that night on the Winnipeg Flyer and said he did not hear any conversation in that smoking compartment about the Lorimer matter by anybody; that Mr. Wiehe left the compartment before he did and was not seen again by Johnson, who testified he "looked for" Wiehe on the train. "It was not idle curiosity; it was a matter of cold business." Johnson did not leave his seat in the sleeper, he admitted, although "looking for" Wiehe.

He testified that he left that smoking compartment, went into the sleeper, took a seat about the center of the sleeper, and watched for Mr. Wiehe.

I think it will appear in this connection, from other witnesses whom Wiehe called to sustain him in his denial, that Johnson is not telling the truth.

S. J. Cusson, general manager of the Virginia & Rainy Lake Lumber Co., testified that he was on the Winnipeg Flyer on the night in question with the Hines-Weyerhauser-Wiehe crowd. His testimony as to the length of time he was in the smoking compartment is vague and confused. He saw Burgess and Wiehe sitting near each other and facing each other.

Q. * * * and you heard no conversation in there about the Lorimer matter?—A. None at all.

Mr. Cusson was not in the committee room during the examination of Mr. Johnson. Mr. Helm, chairman of the committee, had asked that witnesses who had not yet testified retire to another room. Cusson did not therefore hear Johnson's testimony about his efforts to find Mr. Wiehe, after he had left the smoking compartment, in order to discuss "business matters" with him. Cusson's testimony on this point contradicts Johnson's testimony. Johnson testified that when he left the smoking compartment he went back into the sleeper—same car—and sat down in a seat near the middle and "played it both ways"—that is, watched both ends to make sure that Wiehe did not enter the car without his knowledge.

A pretty handy witness, you see; a fellow who was looking "both ways."

Said Johnson:

I was not successful in seeing Mr. Wiehe—after he left the smoking compartment—until the next evening at 8 o'clock, in Virginia.

You see the purpose of this testimony is to get Wiehe out of the way, out of the smoking compartment, so that he could not possibly have had this conversation with Mr. Burgess—that is, if Johnson is telling the truth, which he is not.

Johnson responded to this line of questioning evasively, bringing from Chairman Helm the admonition, "Don't argue; answer the question."

On this point, coming back now to Cusson's testimony, Cusson testified as follows, directly contradicting Johnson:

Q. Do you mean to say, Mr. Cusson, that when you came out of the smoking compartment into the body of the car that Mr. Wiehe was there?—A. I do.

Now Johnson, you recall, says Wiehe did not appear in the car that evening. Clearly, Johnson was framing the story so Wiehe could not possibly have gone into the smoking compartment again to resume this conversation with Burgess. Johnson was playing a strong hand. Whereupon comes Mr. Cusson, who had not heard Mr. Johnson's testimony on this subject, saying that when he had gone out into the sleeping car Mr. Wiehe was there.

Q. And he remained there until you arrived at Virginia?—A. Yes, sir.
Q. Did you talk with him?—A. Yes, sir. * * *
Q. How far apart were Johnson and Wiehe when you came out of the compartment?—A. Oh, I don't know as I could say just where Mr. Johnson sat.
Q. Well, assuming that he sat in the middle of the car, how far was Mr. Wiehe away from where Johnson sat?—A. Two or three seats.
Q. Forward or backward?—A. Forward.
Q. In front of him, so that he was in plain view of Mr. Johnson all the time?—A. Yes, sir.

James H. Harper, of the insurance firm of Harper, Shields & Co., of Duluth, carrying fire insurance for lumber concerns with which Mr. Hines is associated and a stockholder in the Virginia & Rainy Lake Lumber Co., of which Mr. Hines is president, was another witness called in this case. Harper testified that he was on the Winnipeg Flyer on the night in question, but that at no time during the trip was he in the smoking compartment. He looked into the smoking compartment as he came into the car, greeted Mr. Wiehe, who was inside, and "noticed in there at that time Mr. Johnson, a Mr. Burgess, and Mr. Fred Weyerhaeuser, and there were some others I did not notice particularly, because I just looked for an instant."

Harper testified that about half an hour later Mr. Wiehe came out of the smoking compartment into the main part of the car. This also directly contradicts Johnson's testimony.

Q. Well, how long did he remain there?—A. Well, he was there—oh, I suppose he and I were together possibly an hour, the rest of the time.
Q. In the main part of the car?—A. Yes, sir. * * *
Q. So that, so far as your observation went, Mr. Wiehe was in that same car during that entire trip?—A. Yes, sir.
Q. Did not leave the car, in other words?—A. Not to my knowledge; no. * * *
Q. Where did Mr. Wiehe sit with reference to the seat occupied by Mr. Johnson and the man with whom he was talking?—A. Well, when he was with me he was down near the end of the car, next to the smoker, where my seat was.
Q. And when he left you, then he went up to the other end of the car?—A. Yes, sir; as I remember it.
Q. And stood there and talked with those other men whom you mentioned?—A. I think he sat in with them.
Q. So that he was about one section removed from Mr. Johnson and the men he was talking with?—A. Well, I think they were perhaps right across the aisle.
Q. Yes; within comparatively a few feet of each other?—A. Yes.

Now, Mr. President, I quote from the testimony of Mr. Wiehe himself.

Mr. Christian F. Wiehe, of Chicago, secretary and a director of the Edward Hines Lumber Co., testified that he was in the smoking compartment of the Winnipeg sleeper on the night in question and remained there "25 or 30 minutes."

Although denying he told anyone he had contributed $10,000 to the Lorimer fund, Mr. Wiehe admitted, and I quote now his exact words:

I may have talked into a conversation. I may have talked there. I would not say I did not or did.

Mr. W. H. Cook, of Duluth, stockholder in the Virginia & Rainy Lake Lumber Co., of which Edward Hines is president, testified that he was on the Winnipeg Flyer on the night in question. He did not see Mr. Burgess on the train, but about 11 o'clock next morning, at Virginia, he met Mr. Burgess and talked with him.

Q. What was that conversation?—A. Why, he came up to me and asked me who that—he said, "What do you call that fellow with the short, black whiskers, one of the Hines gang?" "Oh," I said, "do you refer to Mr. Wiehe?" He said, "Yes; that is the fellow." He said, "He is a funny fellow. He talks too much."

Now, mark you, that was the next morning.

Q. He said he talked too much?—A. Yes.
Q. Anything else said?—A. Oh, he said he was talking about the Lorimer election up there, and money, and one thing and another. I did not pay much attention to what he did say.

I cite that as showing what was in Mr. Burgess's mind—the impression that had been made upon him by this talk with Wiehe in the smoking compartment.

Mr. Cook testified further that he has known Edward Hines for some 10 years; that in the month of May, 1909, shortly before the election of WILLIAM LORIMER, he had a conversation with Edward Hines at the Grand Pacific Hotel, in Chicago, in the presence of Mr. Henry Turrish, of Duluth, who is in the lumber business in Oregon.

I think it is fair to say at this point that Mr. Cook and Mr. Hines have had some business troubles. The following is from Mr. Cook's testimony:

A. Mr. Hines was going through the lobby—this was in the Grand Pacific Hotel—and he saw Mr. Turrish and myself standing there. He stopped and spoke to us. Mr. Turrish asked him how he was getting on down in Washington. "Oh," he said, "I am having a hell of a time." He said, "Now, there is—for instance," he said, "there is old STEPHENSON," he said, "after I elected him he has gone down to Washington and started working there for free lumber." He said, "I had a terrible time getting him lined up." Then he went on and told about what a time he had with the southern Democrats. He said he would have them all fixed up to-day and to-morrow they would flop, and he would have to go and fix them all over again.
Q. What else, if anything, was said at that conversation?—A. Mr. Turrish asked him how they were getting along down here with the senatorial deadlock. "Well," he said, "it is all fixed." He said, "I will tell you confidentially LORIMER will be the next Senator." He said, "We had Boutell fixed for the senatorship. He had promised to work to keep the $2 tariff on lumber, but," he said, "when the lumber schedule came up before the Ways and Means Committee he was working for free lumber." He said, "I immediately took it up with Senator Aldrich, and we decided that we had to have another man, a man we could depend on. It was decided that I should have a talk with LORIMER. I did. LORIMER has agreed to stand pat. He will listen to reason. I have got it all fixed; he will be the next Senator from Illinois." That was the substance of the conversation.

Mr. Cook testified to another conversation with Mr. Hines subsequent to this, "somewhere about" the 24th or 25th of the same month—May, 1909. Mr. Cook and Mr. O'Brien, of St. Paul, had arranged with either Mr. Wiehe or Mr. Baker, of the Hines Lumber Co., for a conference with Hines at the Grand Pacific Hotel. Hines kept the appointment.

As soon as Hines came into the hotel Cook met him in the lobby. After asking for the number of Cook's room he said he had talked over the long-distance telephone and would go up to Cook's room and attend to it there.

Q. Well, did he subsequently come to your room?—A. Yes. I got him—my room was on the parlor floor and Mr. O'Brien's was up on either the second or third floor, and my room was easiest to get at, and we went up and—well, Mr. Hines went in and put in a long-distance call, and then we all went to my room. * * *

Q. Well, now, what happened after you got in your room?—A. Why, we were in the room for a short time—some, probably, three or four minutes. The phone rang. I went to the phone. The operator, I suppose, asked if Mr. Hines was there. I said, "Yes." She says, "Here is Springfield for him; here is the governor." I called Hines to the phone.

Now, there will appear some contradictions in this testimony as to just whom Hines talked with at that time. I will later undertake to demonstrate that he talked with LORIMER. As is suggested to me by the Senator from Oklahoma [Mr. OWEN], the use of the word "governor" might have been prearranged. I will prove with the aid of Hines's own testimony that he talked with LORIMER, and talked about money and about "putting it over," and so I ask Senators to follow me closely.

Now, mark you, they are in the room of Cook on the second floor of the Grand Pacific Hotel. O'Brien is there; Cook is there; Hines is there; and Hines's brother-in-law, Wiehe, is there.

Q. Did you hear the conversation which he had on the telephone that morning?—A. Yes.

Q. Will you tell the committee what it was as you remember it?—A. Hines took the receiver out of my hand, and he spoke in the phone. He asked, "Hello, hello, hello. Hello, is this you, governor?" He said, "Well, I just left President Taft and Senator Aldrich last night in Washington. Now, they tell me that under no consideration shall Hopkins be returned to the Senate. Now, I will be down on the next train. Don't leave anything undone. I will be down on this next train, prepared to furnish all the money that is required. Now, don't stop at anything; don't leave anything undone; I will be down on the next train," or words to that effect—repeated it over three or four times.

Q. And who was present in the room during that conversation besides you and Mr. Hines?—A. William O'Brien and either Mr. Wiehe or Mr. Baker; I am not positive which.

About a year afterwards, in May or June, 1910, Mr. Cook received a visit from Mr. C. F. Wiehe, who came to him at Mr. Hines's request. Mr. O'Brien was present during this conversation between Mr. Wiehe and Mr. Cook. At 12 o'clock midnight Mr. Wiehe came to the Grand Pacific Hotel.

Q. Well, tell the committee what occurred when Mr. Wiehe came to the hotel that night about midnight.—A. Mr. O'Brien and I had been to a theater. We came back to the hotel shortly after 11 o'clock, and sat down and had a smoke. And we smoked there for some time, finally burned up a couple of cigars, and I says, "Bill, it is about time to go to bed," and I looked at the clock, and it was just 12 o'clock. He says "I guess that is right," he says, "we had better go to bed." We were just about starting for bed and Mr. Wiehe came in. He seemed to be very anxious that we should get out of town; told us if we did not get out of town that night they would have us before the grand jury the next morning. He said that Hines had called him up out of bed and told him to get down and see us; LORIMER had called him—that is, Hines—and told him that we were in town, and "for God's sake to get us out."

Q. Do you remember anything else that occurred at that time?—A. Yes. We had—Mr. Wiehe sat down after a while, and we had a little further conversation. I think Mr. O'Brien made the remark that "the papers seem to be chasing Hines pretty hard"; and Wiehe says, "Yes, ha, ha, they will get him." He says, "Hines talks too much." He says, "All the office force gets there from daylight to dark is, 'Keep still, keep still, keep still; don't say a word,' then," and he says, "Every damned newspaper reporter that comes along, Hines will give him two columns." * * *

[Laughter.]

Mr. O'Brien asked Wiehe how—he says, "How do you expect we are going to get out of here this time of night; no train leaving here now?" And there were some further remarks about certain people not being very scared of the grand jury, even if they were pulled up. That was about all. * * *

Q. How did Mr. Wiehe act on that occasion?—A. Well, he was considerably excited when he first came in.

Q. Did he say that he had come from his home to see you gentlemen purposely in order to convey this message?—A. Well, he said Mr. Hines had called him up out of bed.

Mr. Cook further testified that he met Mr. Hines about two or three weeks after this midnight visit of Mr. Wiehe's. This time he met Hines by appointment in the office of William E. McCordic, who is Mr. Cook's Chicago attorney.

Q. Well, did you have a talk with Mr. Hines on that occasion?—A. Yes; Mr. Hines came down there to see Mr. Davis and Mr. McCordic and myself about some exchange of some bonds that we were interested in. After our business was concluded Mr. Hines and I went down together. As soon as we got out into the hall Hines spoke to me about a story that was going around to the effect, or purporting to be something similar to, the conversation which he carried on over the long-distance phone from my room in the hotel about a year previous. He says, "Now, this story comes from some telephone operator, some girl," he says, "and they have got it all mixed up"; says he, "the way they have got it is that I was talking from your office in Duluth with ex-Gov. Yates at Springfield, wherein I told him I would be down on the next train prepared to furnish a million dollars to elect LORIMER." "Now," he says, "you know that was not Yates at all I was talking with." He says, "It was Deneen"—

Fixing up another witness's memory, you see—

And then he went on to caution me about keeping very quiet about such a story, or about the conversation he held there. He said if it ever came out that it would be betraying the confidence that President Taft and Senator Aldrich put in him; that he never could go back to Washington; he never could look either of those gentlemen in the face again, and that it would compromise some of the best people in the city of Chicago and the State of Minnesota.

Cook told the committee that he had discussed Hines's telephone conversation with Mr. O'Brien, of St. Paul, and that there was no difference at all between his remembrance of what took place and what Mr. O'Brien remembered about it except the single matter as to whether it was Gov. Deneen that Hines was talking with over the phone or ex-Gov. Yates.

It does not make any difference; any governor was good enough for Hines to use as a cover for LORIMER.

Mr. Cook further testified that he had had some business controversies with Mr. Hines, but that such matters would in no way cause him to testify to anything that was untrue or to color any of his statements to the detriment of Mr. Hines.

In further corroboration of these conversations with Hines and Wiehe, Mr. Cook testified that he had repeated all of them to his attorney, Mr. McCordic, and also to Mr. Washburn and Mr. Bailey, his attorneys in Duluth, soon after they occurred.

Now, of course, this Illinois committee, in conducting its investigations, was limited by State lines, and whenever it heard of any witnesses outside it was necessary to send some messenger or employee of the committee to interview them and ask them if they would come before the committee and testify. For this purpose the Illinois senate employed Mr. M. B. Coan.

Mr. Coan testified that he went to St. Paul to interview Mr. William O'Brien. What Mr. O'Brien said to Coan is in direct contradiction of Mr. Hines's statement that he had not talked about money in the Lorimer election to anyone. Mr. Coan's account of what O'Brien told him is as follows:

He (O'Brien) said he was mixed up in a deal with the Weyerhausers and Hines, and he did not think it would be to his advantage to come down here and testify; that he felt that his testimony might convict Mr. Hines of perjury to this committee; that he believed Mr. Hines had testified that he had not spoken to anyone in regard to the money used in connection with the election of Mr. LORIMER; and that he had told him he—he had had talks with him about it.

O'Brien also told Coan that W. H. Cook's testimony concerning Hines's telephone conversation from the Grand Pacific Hotel to a person he addressed as "governor" was entirely correct, except that O'Brien differed with Cook as to who was on the other end of the telephone. O'Brien was of the opinion that it was ex-Gov. Yates to whom Hines was talking, while Cook thought it was Gov. Deneen.

Regarding Cook's statement that Mr. Wiehe came to the Grand Pacific Hotel and asked Cook and O'Brien to get out of town before the grand jury could call them, "and so forth," O'Brien said to Coan, "Why, they can't deny it; they know it is true; they won't deny it."

Coan further testified that in the capacity of investigator for the committee he visited Marquette and interviewed Frank J. Russell, editor of the Mining Journal; E. V. Mosier, deputy United States marshal; and a reporter named Lowe on the Mining Journal, in reference to the Illinois senatorial election. He also talked with Shelly B. Jones, druggist, and Rush Culver, lumberman and lawyer, of L'Anse, Mich.

Mr. Jones stated to Mr. Coan that he had some information with reference to the Illinois senatorial election. Mr. Coan said:

He (Jones) told me that * * * in the early part of 1909 Edward Hines, who was dealing with him and his brother-in-law (Rush Culver) and Edward Culver in lumber from the Northern Lumber Co., in which they were both interested, came to Marquette, and they were out that evening and having a few drinks, and either in the Marquette Hotel or in a saloon called Bush's saloon, he could not remember which, he said Mr. Hines began telling him the history of his life—a synopsis of it—how he rose from a poor boy to becoming a very prominent lumberman, and he concluded by saying that he had just succeeded in making a United States Senator that had cost a hundred thousand dollars, and that it was well worth it; that he would stand for a high duty on lumber, and that the lumber trade needed such a man in Washington. That is about all he said.

Mr. Jones stated to Mr. Coan that at the time of this conversation with Hines his brother-in-law, Rush Culver, was present. This statement was made by Mr. Jones to other persons in and about Marquette.

Mr. Coan, during this visit to Marquette, on or about April 9, also talked with Mr. Rush Culver, lawyer and lumberman. He met him at his house in L'Anse and asked him about this conversation. Mr. Coan said:

He (Culver) said that he and Hines were very good friends, and that he did not want to say anything that would get Mr. Hines into any trouble; that he had talked with Mr. Hines a number of times about Senator LORIMER and his political affiliations; that Hines had spoken to him about financing LORIMER'S campaign, and perhaps for Congress and otherwise, and he said that he was not clear as to just when this conversation had taken place; he thought it was perhaps before his last conversation with Hines on the campaign contribution; he said he thought it was in 1907. Then he called in his son, Harry Culver, and he asked him when it was that the Northern Lumber Co. had sold Hines a lot of hardwood culls, whatever they are, and his son said that it was in the summer before he left college, and he left college in 1910, which made it the summer of 1909. And he placed that as nearly as he thought he could—the date when he talked with Hines. * * * He said Mr. Hines talked very candidly to him and he talked frankly to him.

Frank J. Russell, a resident of Marquette, made affidavit as follows:

That on or about the 6th day of April, A. D. 1911, in the city of Marquette, I went to see Shelly E. Jones, of said city, in his place of business and asked him if he was a party to a conversation with Edward Hines, of the city of Chicago, State of Illinois, relative to the election of WILLIAM LORIMER as a United States Senator from Illinois. To this question Jones replied, in substance, that Hines had said in the course of the conversation referred to, "We put LORIMER over. It cost us a lot of money to do it, but he is well worth the price. I handled the stuff."

On the following day Russell again discussed the matter with Jones, and Jones again repeated his statement, saying that the remarks made by Hines about LORIMER'S election grew out of a discussion of the lumber tariff, Hines saying that LORIMER was a high lumber-tariff man and that was why he was a good man to have in the United States Senate.

Russell stated further that in this conversation Jones also said:

Have within a week called this conversation to the attention of Rush Culver, who was also present, and he told me that he remembered it.

I suppose these gentlemen were reminded of Hines's former statement by the testimony which the investigation by the Illinois Senate committee was bringing out at that time and was then the subject of general newspaper comment.

A witness, Mr. Bergener, was present at this conversation. That witness was present, of course, at Mr. Coan's instance, because, I assume, he was directed to have somebody present when he interviewed these witnesses in other States who could not be persuaded to respond to a subpœna.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER (Mr. CURTIS in the chair). Does the Senator from Wisconsin yield to the Senator from Idaho?

Mr. LA FOLLETTE. Certainly.

Mr. BORAH. Does the Senator from Wisconsin desire to try to conclude to-night?

Mr. LA FOLLETTE. It will be impossible, I will say to the Senator from Idaho, for me to conclude to-night. I would be perfectly willing to continue as long as the Senate cares to sit. I regret that I did not get started earlier to-day. I was completing my analysis of this testimony. There are some 600 pages of this testimony. I have put some time upon it in order to present it to the Senate, as I consider it important.

Mr. CULLOM. Will the Senator yield for a motion to adjourn?

Mr. LA FOLLETTE. I will, and with the statement that I should like to go on as early to-morrow as possible and complete what I have to submit to the Senate if I can.

Mr. CULLOM. I move that the Senate adjourn.

The motion was agreed to, and (at 5 o'clock and 42 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, May 24, 1911, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

TUESDAY, *May 23, 1911.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Almighty God, our heavenly Father, before whom millions daily prostrate themselves in adoration and praise, we humbly and reverently bow in Thy presence and acknowledge with unfeigned gratitude our indebtedness to Thee for all things; and we most humbly and fervently pray that Thou wilt continue Thy blessings unto us, to uphold, sustain, and guide us, that we may fulfill to the uttermost our mission in this life and be fully prepared at the proper time to enter upon that other life where we shall serve Thee in a world without end, for Thine is the kingdom and the power and the glory forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

RATIFICATION OF THE INCOME TAX.

The SPEAKER laid before the House the following communication from the secretary of state of Colorado, inclosing a joint resolution of the Legislature of Colorado ratifying the proposed amendment to the Constitution of the United States authorizing an income tax:

STATE OF COLORADO,
OFFICE OF THE SECRETARY OF STATE.

UNITED STATES OF AMERICA, *State of Colorado, ss:*

I, James B. Pearce, secretary of state of the State of Colorado, do hereby certify that the annexed is a full, true, and complete transcript of senate concurrent resolution 3, which was filed in this office the 21st day of February, A. D. 1911, at 5.43 o'clock p. m., and admitted to record.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of Colorado, at the city of Denver, this 20th day of May, A. D. 1911.

[SEAL.] JAMES B. PEARCE, *Secretary of State.*
By THOMAS F. DILLON, Jr., *Deputy.*

Senate concurrent resolution 3, ratifying the sixteenth amendment to the Constitution of the United States of America.

Whereas both Houses of the Sixty-first Congress of the United States of America at its first session, by a constitutional majority of two-thirds thereof, made the following proposition to amend the Constitution of the United States of America in the following words, to wit:

"Joint resolution proposing an amendment to the Constitution of the United States.

"*Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States, which, when ratified by the legislatures of three-fourths of the several States, shall be valid to all intents and purposes as a part of the Constitution, namely:

"'ART. XVI. The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States and without regard to any census or enumeration.'"

Therefore be it

Resolved by the General Assembly of the State of Colorado, That the said proposed amendment to the Constitution of the United States of America be, and the same is hereby, ratified by the General Assembly of the State of Colorado.

That certified copies of this preamble and joint resolution be forwarded by the governor of this State to the President of the United States, Secretary of State of the United States, to the Presiding Officer of the United States Senate, and to the Speaker of the United States House of Representatives.

STEPHEN R. FITZGARRALD,
President of the Senate.
GEORGE MCLACHLAN,
Speaker of the House of Representatives.

Approved this 20th day of February, A. D. 1911.

JOHN F. SHAFROTH,
Governor of the State of Colorado.

Filed in the office of the secretary of state of the State of Colorado on the 21st day of February, A. D. 1911, at 5.43 o'clock p. m.

JAMES B. PEARCE, *Secretary of State.*
By THOMAS F. DILLON, Jr., *Deputy.*

RIGHT OF GOVERNMENT EMPLOYEES TO ORGANIZE.

Mr. MCCALL. Mr. Speaker, I ask unanimous consent to print in the RECORD an article which I hold in my hand, chiefly made up of a letter by Hon. Nicholas Murray Butler, of Columbia University, New York City, on the question of the right of the Government employees to unite together in organizing a union. It is a very admirable letter and I think Members might like to read it.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent to have printed in the RECORD the article to which he refers. Is there objection?

There was no objection.

The article referred to is as follows:

WHEN GOVERNMENT EMPLOYEES GO ON STRIKE.

[The Sun, Tuesday, May 18, 1909.]

We have asked and obtained permission to quote from a private letter written by President Nicholas Murray Butler, of Columbia University, concerning a momentous question which he has made recently the subject of several public addresses:

"The newspapers are advising us day by day of the situation in which the French Government finds itself through an earlier temporizing with this question. France will either be a republic or a commune, with all that the word commune means, unless Clemenceau can have public opinion at his back in the attitude which he is now taking, sound although belated.

"In my judgment the fundamental principle at issue is perfectly clear. Servants of the State in any capacity—military, naval, or civil—are in our Government there by their own choice and not of necessity. Their sole obligation is to the State and its interests. There is no analogy between a servant or employee of the State and the State itself on the one hand, and the laborer and private or corporate capitalist on the other. The tendency of public-service officials to organize for their own mutual benefit and improvement is well enough, so far as it goes. The element of danger enters when these organizations ally or affiliate themselves with labor unions, begin to use labor-union methods, and take the attitude of labor unions toward capital in their own attitude toward the State. In my judgment loyalty and treason ought to mean the same thing in the civil service that they do in the military and naval services. The door to get out is always open if one does not wish to serve the public on these terms. Indeed, I am not sure that as civilization progresses loyalty and treason in the civil service will not become more important and more vital than loyalty and treason in the military and naval services. The happiness and prosperity of a community might be more easily wrecked by the paralysis of its postal and telegraph services, for example, than by a mutiny on shipboard.

"Just as soon as any human being puts the interest of a group or class to which he belongs, or conceives himself to belong, above the interest of the State as a whole, at that moment he makes it impossible for himself to be a good citizen. It seems to me that what I said in my speech in Chicago is entirely true, namely, that a servant of the entire community can not be permitted to affiliate or ally himself with the class interests of a part of the community.

"President Roosevelt's attitude on all this was at times very sound, but he wabbled a good deal in dealing with specific cases. In the celebrated Miller case at the Government Printing Office he laid down in his published letter what I conceive to be the sound doctrine in regard to this matter. It was then made plain to the printers that to leave their work under the pretense of striking was to resign, in effect, the places which they held in the public service, and that if those places were vacated they would be filled in accordance with the provisions of the civil-service act, and not by the reappointment of the old employees after parley and compromise.

"It may be that the exact line between a mutual benefit organization and a trade union is not easy to draw; but I think it must be drawn and insisted upon so far as Government employees are concerned, unless we are to permit communism to organize itself under our flag and at the expense of the taxpayers themselves.

"To me the situation which this problem presents is, beyond comparison, the most serious and the most far-reaching which the modern democracies have to face. It will become more insistent and more difficult as Government activities multiply and as the number of civil-service employees increases. Now is the time to settle the question on right principles once for all. So far as my observation goes, the events which have been taking place in France have produced a response from American opinion which is sound to the core."

We have yet to see any clearer exposition of a question which, as Dr. Butler says, "will wreck every democratic government in the world, unless it is faced sturdily and bravely now and settled on righteous lines." We print his remarks in this place because of their uncommon discernment, their vigor, and their justice.

PERSONAL PRIVILEGE.

Mr. WILSON of Pennsylvania. Mr. Speaker, I rise to a question of personal privilege.

The SPEAKER. The gentleman will state it.

Mr. WILSON of Pennsylvania. Mr. Speaker, I can state it best by reading from an article appearing in the New York Herald on the 17th of this month, which has just been brought to my attention, in which Mr. John Kirby, jr., president of the American Manufacturers' Association, is reported to have used the following language in an address to that association on a previous date:

"*There are danger signs* ahead of us," said Mr. Kirby, "in the Sixty-second Congress, and we shall be fortunate indeed if at its final adjournment we are as free from vicious class legislation as we are at present.

"With WILLIAM B. WILSON, one time secretary-treasurer of the miners' union, chairman of the House Labor Committee, his daughter Agnes clerk of the committee, his daughter Mary private secretary to the chairman of the House Labor Committee, and his wife, Mrs. William B. Wilson, janitress of the room of the House Labor Committee, we have a committed American Congress and a fair illustration of the extremes to which labor leaders will go when they get a chance."

Mr. Speaker, the only particle of truth that there is in that statement is that my daughter Agnes is clerk to the Committee on Labor. So far as the statement relative to my daughter Mary is concerned, or to my wife, it is without a particle of foundation in fact. My daughter Agnes has been my secretary for the past 10 years, for more than 10 years—long before I was a Member of Congress. When I became a Member of Congress she was continued as my secretary. When I was elected as chairman of the Committee on Labor, knowing that she had spent 10 years of time in connection with labor organizations, as my secretary, I selected her as clerk to the committee. My daughter Mary and my wife have both been with me during the present session of Congress until recently. They have frequently been in the committee room. My daughter Mary has been sick since she was 12 years of age, and is not physically competent to be a clerk to anyone. My wife has also been sick, having been stricken with paralysis during last February, and is not well yet. She was frequently in the room of the Committee on Labor. That may have given rise to the statement. I do not know. Otherwise it is a malicious statement. My private secretary is Hugh L. Kerwin, of Wellsboro, Pa., and the janitor to the Committee on Labor is Dean Van Kirk, of Galeton, Pa. My wife is the mother of 11 children. We have raised 9 of them. She has been a hard-working woman during her entire lifetime, and she would neither be afraid nor ashamed of being a janitress to a committee, although she prefers being janitress to your humble servant in our home. I look upon this statement as being one that should not go unchallenged. It is a reflection upon me as a Member of this House, and I protest against any statements of this character being sent broadcast over the country. [Applause.]

UNANIMOUS CONSENT.

Mr. LAFFERTY. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution which I send to the Clerk's desk.

The SPEAKER (after examining the resolution). This is a resolution that will have to go through the basket under the rules of the House. Until a few months ago the unanimous-consent business rested entirely with the Speaker, the Chair will state to the gentleman from Oregon. Just exactly when it was changed I have forgotten, but a new rule was adopted by which there was established a Calendar for Unanimous Consent. At the beginning of the present session, in order to get things in working order, the Chair recognized a few people out of order, but the Chair announced about a week ago that he was going thereafter to observe the rule, and that all such resolutions would have to go through the basket.

NEW MEXICO AND ARIZONA.

Mr. FLOOD of Virginia. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of House joint resolution 14, relative to the admission of Arizona and New Mexico as States into the Union.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the statehood resolution, with Mr. GARRETT in the Chair.

Mr. FLOOD of Virginia. Mr. Chairman, I yield 20 minutes to the gentleman from Tennessee [Mr. HOUSTON].

Mr. HOUSTON. Mr. Chairman, the question of the admission of Arizona and New Mexico as States of the Union has been so much discussed throughout the public press of the country and by public speakers all over this land and there has been such unanimity of expression in behalf of their right to admission as full States into this Union that it would seem to be useless to take up the time of this House in offering arguments or reasons why these Territories should be admitted as States into the Union. But in listening to the many speeches made on this subject, able and eloquent and varied as they have been, I have concluded that it was but right that as a member of the Committee on the Territories for the past four years I should state to this House some of the reasons that caused me to think that every Member of this House should vote for the admission of these Territories into the Union. Their right to admission has been admitted by all. The great political parties of this Nation have expressed it in their platforms. So far as the Nation could through its public speakers and its party-platform declarations they have promised to these Territories that they should be admitted as States into this Union. The faith of our Nation has been plighted to them for statehood.

For more than a hundred years the Territory of New Mexico has been connected with us, has been studying our institutions, has been learning of us the ways of a republican form of government. They have adopted our customs and principles of government; they have assimilated them; and for more than 60 years they have felt and have been justified in the feeling that they had the absolute promise of this Republic that they should at an early date be admitted as a State. So far as the area is concerned and her population and the character of her citizenship and her vast and varied resources are concerned they justify to the fullest her admission. At this point, Mr. Chairman, I will digress in order to ask leave to extend my remarks in the RECORD, for the purpose of printing a portion of the evidence taken before the Committee on the Territories in the hearings upon the question of the admission of this Territory and Arizona into the Union.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. HOUSTON. With this permission I will insert some extracts from the statement of Judge A. B. Fall, a citizen of New Mexico for nearly 30 years and a prominent and distinguished lawyer and member of their constitutional convention:

There is prevalent throughout the country an entirely mistaken idea about New Mexico and the New Mexicans, particularly about those whom we designate as native citizens. There is even a mistaken idea about the name of the Territory. I presume it possible that if you gentlemen thought about it at all you would conclude that New Mexico was named for old Mexico, but the fact is that New Mexico was named 100 years before old Mexico was named.

Old Mexico was the Province of "New Spain" 100 years after New Mexico was known as "New Mexico." New Mexico was governed directly by the King of Spain, and its governors were appointed by the viceroy. The southern boundary of the Province of New Mexico extended to nearly 400 miles south of Juarez, opposite El Paso, Tex.; it included the States of Colorado and California and extended on the north to the Frozen Sea, as shown on the map of the Duke of Burgundy. New Mexico was "discovered" by Coronado in 1541, and was settled by Oñate in 1595. In marching toward New Mexico he discovered the settlement of Santa Barbara, near what is the present mining camp of Parral. He found the country inhabited by Indians who belonged to the same tribe as the Aztecs in Mexico City. They were dressed in cotton cloth. He wrote back that he had discovered a "new Mexico" (referring to Mexico City), and he was appointed or authorized by the viceroy to proceed to explore New Mexico. For 100 years New Mexico was cut off from old Mexico by 400 miles of desert. New Mexico took no part in the Mexican Revolution, because, as I have explained, these people were cut off from old Mexico. They formed a community of their own, and in some respects theirs was the most remarkable communal form of government this country has ever known. The settlements were made along the Rio Grande from the Colorado line to the Texas border. Grants were made by the Spanish Government to the communities, and royal commissioners were sent up there to divide the land into severalties amongst the colonists. The irrigation ditches which were constructed were constructed in common, and have been owned in common for over 300 years. They have an entirely different water system from that which you have in Colorado and other States of the Union; that is, in so far as the Rio Grande section is concerned.

When Gen. Pike went into New Mexico in 1806, and the Santa Fe trail was afterwards opened, the people of New Mexico—and I can give you the names of some of the families—sent their children to school, not in old Mexico, but they sent their children to Missouri to be educated. They sent their children into the United States to be educated. The Lunas, the Chavezes, the Armijos, Oteros, Pereas, Romeros, and others were very prominent families in New Mexico, and sent their children to school in St. Louis. Their girls were educated at Notre Dame and in other places in the United States. After the establish-

ment of the Santa Fe trail New Mexico was in the line of the great freighting operations between Independence, Mo., and old Mexico. There were 300 miles of desert between New Mexico and settlements in old Mexico, and 100 miles in the southern part of New Mexico, known as the Jornado del Muerto (Journey of Death), and these people in New Mexico were the go-betweens between the citizens of the United States and settlements of New Mexico and the people of the northern States of old Mexico.

As I have indicated, these people were familiar with American institutions, and the children of those who were able to bear the expense were educated, as I have stated, in the United States. They knew by far more of American institutions of government then than they know to-day or have ever known of the institutions of old Mexico. Following the opening of the Santa Fe trail and the system of freighting of which I have spoken came the Mexican War, and Gen. Kearny, with Doniphan and his volunteers, crossed the country on his way from Independence, Mo., or Fort Leavenworth, into Mexico.

The condition of these people was very different from anything that ever obtained in old Mexico. These settlers in New Mexico, instead of being peons and slaves subject to some great family, were independent colonists and independent landowners. They constituted an entirely different class of settlers from those in old Mexico. That has been their condition for 300 years and is the same to-day. When they came into the United States, they brought with them not only their laws as to waters and their communal form of government, but they brought the law of acquest property and many other civil laws, forms, and customs. Under the law of acquest community property the wife is the partner of the husband and is entitled to one-half of the entire estate. Now, that does not suit some of our people. Some who have come into the Territory more recently do not understand the old irrigation system, and the consequence is that whenever they see something come up about it in the constitution and the legislature they do not understand it. While that is an old custom here, they do not want anything of the kind. Well, as a matter of fact, it is the only system which would work out properly in the communities where these people live and where they constitute over one-half of the population. With the American settlers, who have acquired property from and live among them, they constitute over one-half of the entire population of the Territory. Now, these people were never connected, except as indicated, with old Mexico.

When the Gadsden purchase was made and the flag was raised under the treaty of Gadsden, the same provision was made guaranteeing the right of Mexicans as citizens of the United States, and again when the organic act establishing the government of New Mexico was enacted by the United States Congress; it was also in the compact with the State of Texas. Texas claimed all that portion of New Mexico lying east of the Rio Grande and up into Colorado. They established a government at Santa Fe; they created it in New Mexico in two or three different counties, but when they undertook to take possession the acting governor of New Mexico, Donaliano Vigil, refused to recognize the authority of the State of Texas and called on the President for protection. Col. Monroe was sent out there, and the President sent a message to Congress calling attention to the very grave difficulties that might arise and saying that some arrangement must be made with Texas. In pursuance of that message of the President of the United States, Texas was paid $10,000,000 for a quitclaim to that portion of New Mexico and Colorado which was involved. In that compact with Texas again the rights of the people who occupied that strip were guaranteed, and at the same time the organic act, which has been our fundamental law down to this time, contained the same provision. It was provided by the Congress of the United States that every one of these Mexicans had the right to vote and hold office.

I have referred to these matters for this purpose: You will see if you undertake to take away from them the right to vote it will create great dissatisfaction, and the right of suffrage must be absolutely guaranteed to them in the constitution or they will prefer to remain where they have been for 60 years, under the Congress. They would prefer to remain under the power of Congress rather than to have these rights taken away from them by any constitutional provision. Therefore it was necessary for us to assure them that they would be protected in these rights, in which you have protected them in the treaties I have referred to, before we could persuade them that it would be better to come into the Union. My friend Gov. Curry has referred to the fact that they sent troops to the Civil War and to the Spanish-American War. The records show that New Mexico furnished more volunteers for the Union cause in the Civil War than was furnished by any other State or Territory west of the Mississippi River in proportion to its population. At the same time the southern part of New Mexico, and where they sympathized with the southern cause, furnished a large proportion to the southern army. In the Spanish-American War the records of the War Department show that New Mexico furnished more than her quota of soldiers called for by the President of the United States. They have been patriotic American citizens; they are American citizens in the best sense of that term. They appreciate our Government, and not one of them would go down into old Mexico if he were offered in exchange for his American citizenship one of the princely cattle ranches of that Republic. I can speak and understand the Spanish language, and have mixed with the people for a great many years, and no more loyal or devoted people ever lived.

Mr. Chairman, I voted in the last Congress for a joint resolution admitting New Mexico into statehood without requiring or suggesting any changes in their constitution as they had framed it and adopted it by an overwhelming majority, and I would do so again. I would do this because the people of this Territory have framed the constitution, and I do not believe it is the part of Congress to tell them how to make their organic law, so long as it is republican in form and not in conflict with the Constitution and the Declaration of Independence. In other words, so long as it is not in conflict with a government of the people.

There are provisions in that constitution that I am strongly opposed to, but I do not believe for that reason I should vote to refuse them admission into the Union.

In framing the fabric of this Government it was contemplated and provided that the making of constitutions should be done by the people. Systems were inaugurated for choosing representatives and officers to carry out the will of the people in the three great coordinate branches of the Government, but when it comes to the making of constitutions this has been left to the people alone. Constitutions place limitations upon the different branches of the Government, but let us remember that the people make constitutions.

The organic law of a State, the constitution by which they put limitations and restrictions upon every other branch of their government, is the people's law. They make this the supreme law, and it is not for Congress or Presidents to tell them how they shall make that law. This power is vested in the people, or, rather, I should say is inherent in the people. For these reasons I would not refuse them admittance to this great Union because I disapproved features of a constitution they had made, unless that constitution was clearly subversive of the principles of republican government and repugnant to the principles of the Constitution and Declaration of Independence.

Now, then, Mr. Chairman, the Committee on the Territories have, by the resolution recommended by its majority, provided for the admission of New Mexico and Arizona. It is true they have submitted to the people of these Territories suggestions that they make some amendments to their constitutions, but, mark you, it is only a suggestion. It is not a requirement that these suggested amendments be made a part of their constitutions. The only requirement is that they go to the ballot box and express there their own preference as to whether they will adopt the suggestions. Their adoption is not a condition precedent to their admission into the Union, but in the exercise of the rights of freemen they will, at the ballot box, say whether they approve the suggestions made and whether or not they will adopt them. For these reasons I can most cheerfully support this resolution for the admission of New Mexico and Arizona as States in the Union.

The principal amendment offered, or rather suggested, to the people of New Mexico is a substitute for section 19 of their constitution, which is the section providing for the amendment of their constitution. The suggested amendment makes their constitution easier of amendment than is provided in section 19 as they have adopted it. The proposed amendment simply provides an easier method of changing their organic law, and I am sure this can furnish no well-considered reason why this proposition made to them and submitted to their own determination would justify a refusal to support the resolution authorizing their admission to the Union.

Some other amendments are suggested, but, like the above, they are left to their own determination, and I shall not dwell upon them, for, as before stated, I am willing to let them make their own constitution, so long as it is consistent with a free people's government.

I am unable to understand why any man, be he Republican or Democrat, who is actuated by patriotism and by a sense of justice free from the control of partisan bias or design to gain political advantage, can vote to refuse either one of these Territories statehood.

In fact it seems that all the Members of this House, both Republican and Democratic, are willing to admit New Mexico; but when it comes to the admission of Arizona there is a halting on the part of some of our Republican friends. They are not willing to admit Arizona under the constitution framed by the people of that Territory; not willing to even abide by the decision of those people as to whether or not they shall approve the suggested amendment; but they demand that they shall change their constitution, that they shall rewrite their fundamental law in one particular, or else they shall be denied admission to statehood. When we come to consider what this objection is predicated upon it is difficult to understand why representatives of a people's government should stand up and boldly assert that unless the people of Arizona shall strike out from their constitution the provision providing for the recall of members of the judiciary, it shall not be admitted. I am unable to see any justification for this course in reason or in justice.

It has been suggested that the fact that when Arizona is admitted to this Union she will be Democratic; that she will elect two United States Senators who will be Democrats; that she will elect one Member of this House who will be a Democrat; and will have three Democratic electoral votes; and that these reasons operate upon the minds of Republicans and cause them to vote against giving these people their just and natural rights. Mr. Chairman, this is a reflection upon the patriotism and the political integrity of a part of the membership of this House. I know it is difficult for men to rise above partisan influence, and I recognize the further fact that a proper party spirit is not unworthy of the man who believes in the principles of his party; but, sir, when that influence goes to the extent of causing a representative of the people to cast a vote merely

for the purpose of strengthening his own party, which violates the rights of a part of the people of this great country, it is unjustifiable, to the uttermost, and surely high-minded men "would scorn the spoil from such foul foray borne."

I appeal to Republicans to rise above such an influence and to do justice to these people. I accuse no man on this floor of being controlled by an improper motive, but I recognize the fact that it is sometimes difficult to let patriotism rise above party advantage.

The recall of judges is the stumbling block, it seems, in the way of Arizona in the minds of some. If a Member of this House honestly believes that that feature of their constitution is not republican in form and subversive of the principles of the Declaration of Independence, he would be justified in casting his vote against its admission; but when we come to analyze and consider the real essence of this provision in their constitution I am unable to understand why it will afford a sufficient reason to justify any man in opposing the admission of the Territory upon this ground.

The discussion in this House has hinged around what was meant by being republican in form. Speakers have undertaken to define what is meant by republican in form. Extracts have been quoted and read from many of our great statesmen; lexicons have been consulted and judicial opinions have been appealed to in the effort to get at a tangible, concrete definition that would furnish a rule or a standard by which this question may be decided.

But, Mr. Chairman, it seems to me that the best authority to which we can go in search of light on this question is the fountainhead or the source and beginning of this our own great Government, the greatest and most perfect of all the republics in the history of the world—the wisest and the best republic that has been evolved by the civilization of man. Our fathers undertook to form a republic; they built one, and it occurs to me that there can be no better source of knowledge to go to in search of what is republican than to the builders of this mighty Republic of ours. What is the cardinal principle upon which it rests? In the formation of this Republic the underlying principle was the right of the people to form their government and control it, and the statement in the Declaration of Independence that governments "deriving their just powers from the consent of the governed," and the further statement that declares "the right of the people to alter or abolish it and to institute new government, laying its foundation on such principles and organizing its power in such form as to them shall seem most likely to effect their safety and happiness," and the statement that this is a "Government of the people, by the people, and for the people," and that other phrase that is contained in so many of the State constitutions which asserts that "all power is inherent in the people"; also mark the statements of two of the wise builders of this governmental fabric:

Mr. James Madison, a member of the Constitutional Convention, said: "* * * If we resort for a criterion to the different principles on which different forms of government are established, we may define a republic to be, or may at least bestow that name on, a government which derives all its powers, directly or indirectly, from the great body of the people, and is administered by persons holding their offices during pleasure for a limited period or during good behavior. It is essential to such government that it be derived from the great body of society and not from any inconsiderable portion or a favored class of it * * *." (The Federalist (Hamilton ed.), paper 39, p. 301.) Another and more pointed definition appears in Chisholm *v.* Georgia (2 Dall., 419, 457; 1 L. ed., 440), by Mr. Justice Wilson, a member of the Constitutional Convention, who but a short time after the adoption of the Federal Constitution, in adverting to what is meant by a republican form of government, remarked: "As a citizen, I know the government of that State (Georgia) to be republican, and my short definition of such a government—one constructed on this principle—that the supreme power resides in the body of the people."

One of the framers of the Constitution, Mr. Madison, in No. 43 of the Federalist, in commenting on that clause in the Constitution—section 4, Article IV—which provides that "the United States shall guarantee to every State in the Union a republican form of government," said:

But the authority extends no further than to a guaranty of a republican form of government, which supposes a preexisting government of the form which is to be guaranteed. As long, therefore, as the existing republican forms are continued by the States, they are guaranteed by the Federal Constitution. Whenever the States may choose to substitute other republican forms, they have a right to do so and to claim the Federal guaranty for the latter. The only restriction imposed on them is that they shall not change republican for antirepublican constitutions, a restriction which, it is presumed, will hardly be considered as a grievance.

These are the fundamental ideas upon which our Government is based, and these basic principles, it occurred to me, should furnish the best definition of which is republican in form, because they furnish the foundation of this the master Republic of the ages. These are the very foundation stones upon which the fabric of this Republic rests, and can any man in reason say that it is unrepublican for a State to reserve the right to recall an officer or recall a judge when, in the judgment of its people, they believe they should exercise this power, and when they employ the republican methods of doing so by the exercise of the ballot, that legal expression of a freeman's will?

Mr. FERRIS. Will the gentleman yield?

Mr. HOUSTON. Yes, sir.

Mr. FERRIS. I had wondered, as the gentleman traveled along very much the same line of thought and belief that I have, if he did not recognize that the people of Arizona—it being a new State, where conditions are rapidly changing, as they are transforming from the Territory to a State—would find the right of recall, initiative, and referendum more necessary there than perhaps in any other place?

Mr. HOUSTON. I think it is undoubtedly true that the gentleman is correct. I think it is very reasonable to conclude that the very conditions to which the distinguished gentleman from Oklahoma has alluded would give them a better reason for the recall than exists in the old and more settled States.

Mr. FERRIS. And if I may interrupt the gentleman right in the same connection, having so recently gone over precisely the same ground in our State, this position is true: But few of the candidates in a new State are known at all until the time they are elected. The head of the ticket is the only one that any attention is paid to whatever, and the officers lower down on the ticket are voted for just by guess and not by reason of any personal knowledge of their true worth.

Mr. HOUSTON. I repeat that it is most reasonable that their conditions make more justification for the exercise of this power than exists elsewhere. But I want to say this, that they are a part of this great Nation; they should be clothed with all the sovereign rights of the people of every other part of it; they should have the right themselves to pass upon what they need, as they are upon the ground and best know the conditions and what those conditions demand.

Mr. STEPHENS of Texas. Will the gentleman yield?

Mr. HOUSTON. I will.

Mr. STEPHENS of Texas. Is it not a fact that for 50 years, ever since there was an organization of the Territory of Arizona, they have lived under a system of Federal judges, and those men, except possibly in very few instances—none that I know of—have been sent there from other States, have no sympathy with the people, and the people have been ruled by the Federal courts? They are not accustomed to having men whom they have elected themselves, and for that reason they are justified, in my opinion, in not wanting to continue the conditions they have been under for the last 50 years. And I think it is a complete justification of the people of Arizona in having the recall in the constitution.

Mr. HOUSTON. I have no doubt that their judiciary having been an appointive one, that their judges having been furnished to them from Washington, that the fact that they have not had the right to make the selection of their own members of the judiciary operates very largely to create a strong desire on their part to select their own judges, and not only to select them but to control and regulate the tenure of their office as they see proper to do. You may doubt the wisdom of the recall, but you can not in reason say that it is unrepublican.

So, Mr. Chairman, our Republic, the greatest of all republics and the greatest of all nations, was laid out upon the express principle that all power belongs to the people, and I say to you that no man need be alarmed when they are given, or rather when they choose to exercise this power of recall. I have an abiding faith that in their wisdom they will solve this new departure, in a sense, as they have solved other questions when met and tried. [Applause.]

I do not fear disaster or ruin from the exercise or use of a power inherent in the cardinal principles enunciated by the framers of this Government. The wisdom of their building grows upon the world with the advancing years, and the timbers that they laid beneath the national fabric are sound, secure, and safe.

Do not misunderstand me. I do not favor the recall of judges. I have known no conditions or cause to call for the use of such a power. I believe the people should always have the right and power to elect their judges; to fix their term of office, say, for eight, six, or two years; then if they choose to reserve the right to terminate the tenure of office at an earlier period it is only the exercise of their natural and inherent right to do so. The wisdom of this method may be doubted, but there is no foundation for the claim that they have not the right to adopt it if they choose, or that it is unrepublican.

There is a growing disposition in this country on the part of the people to take more active part in the management of their Government, and this is a healthy and a hopeful sign. The

growing sentiment in some parts of the country in favor of the initiative, the referendum, and recall is but a manifestation on the part of the people to take hold of and to control their own governmental agencies. This is by no means an unhealthy symptom.

The fact that the people are on the watch and alive to governmental affairs gives the best guaranty of success to our Nation and is the brightest promise of the full perfection and perpetuation of a people's Government. In their zeal they may make mistakes and call into use untried methods that may prove unwise, but on sober reflection, guided by the experience they will have, they will work out these problems and select the good and discard the bad. This must be true if our Government shall stand, for the judgment of the masses is the final and last voice in controlling the destinies of this country. The more interest they take in its management the better citizens they become and more capable to exercise the rights of freemen and to maintain and perpetuate a people's form of government. So, after all, there is nothing in this feature to alarm us. If any part of the American people see proper to adopt it, they can test it. They can try it upon its merits and pass upon its virtue; and I for one shall not be frightened to leave a question of this kind to the solution of any State that, in its own sovereign capacity, sees proper to make the experiment.

I have confidence in the judiciary of our country. It is a matter of pride to our Nation that almost invariably the judges have been upright and just. The present system among the States has worked well, and to establish the recall would be an innovation that, I believe, would be found upon trial to be impracticable and unwise and one that the people would abandon if it were put in operation; but, Mr. Chairman, that they have the right, in accordance with our republican institutions, to establish this recall I do not think admits of doubt.

For this Congress to exercise the physical power it has to keep Arizona out of the Union because of this feature in its constitution would be an arbitrary exercise of that power that, to my mind, would be utterly unrepublican and even worse than monarchial; it would be despotic. To recognize the right of the people to elect a judge for a given period of time, say, eight, six, or two years, it seems to me, embraces the right to recall that judge or limit his term to a less period if conditions arise that, in their judgment, demand such action.

I think it unwise to go further than to fix his term of office; I think this has proved all sufficient in our country. I think it will stand the test of all conditions that may arise, but I can not say it is unrepublican for a State to exercise the power of recall if in their sovereign capacity they see proper to do so.

In voting to allow Arizona to exercise her own preference as to this feature of her constitution we do not indorse the recall of judges, but we do indorse local self-government and the right of the State to control its own affairs. It is a strained conclusion to reach when you assume that a vote to admit Arizona with the privilege of passing upon this recall feature is an indorsement of the recall. It is an unwarranted conclusion that if carried to its ultimate end would deprive them of the right and power to form their own constitution. What could be more unrepublican than that? Beware lest in the name of republicanism you act the part of the usurper and the tyrant. If you do not allow them to exercise this sovereign right you have utterly trampled under foot the principles of republicanism, of home rule, and local self-government. [Applause.]

Mr. Chairman, as said before, I do not favor the recall of judges; I do not believe in it as a policy of State government; but I do not subscribe to the argument that it would take away from the judge the spirit of independent desire to do right. The man or the judge has but a poor opinion of American citizenship who fears to do right less he incur their disapproval. To the honest man who desires to serve and win the approbation of his countrymen there exists every reason and inducement to do right and to discharge his duty faithfully and according to the law as it is written. The character and history of the American people furnish no reason to fear that they will destroy or condemn the faithful and efficient public officer; on the contrary, they honor and sustain a man who does his duty fearlessly and according to his conscience.

I trust these two Territories will not longer be kept out of their just rights.

There is no excuse for longer delay.

They love our institutions and, what is more, they understand them.

In peace and war they have shown their patriotism and valor.

Let the promise of statehood that has been so long on our lips be put into practice.

Let not partisanship longer stand in their way. Let us redeem the plighted faith of this Nation and remove this reproach upon our sacred honor by admitting these Territories as full sisters into our great body of Commonwealths. [Loud applause.]

Mr. LANGHAM. Mr. Chairman, I yield 30 minutes to the gentleman from Oklahoma [Mr. McGUIRE]. [Applause.]

Mr. McGUIRE of Oklahoma. Mr. Chairman, I have been for a number of years interested in the application of New Mexico and Arizona for admission into the Union. I had the honor of serving as the Delegate to Congress from Oklahoma before that State was admitted, and during that service was for more than four years a member of the Committee on the Territories in this House.

The question of the admission of New Mexico and Arizona was considered at that time, and I became to a greater or less extent familiar with their claims to admission into the Union. There was a difference of opinion in the committee as to the relative merits of these Territories, many Members of the House believing that the two Territories should be united to comprise one State, and the bill which was ultimately recommended by the committee provided that there should be one State formed from these two Territories. Such a provision would give it a vast area, equal in size to the State of Texas. It was believed by many that the physical features as well as the climatic conditions of these Territories would never support a population equal in numbers to that of the average State of the Union unless they were united into one State. On the other hand, many Members believed that they should be separate States, and those differences of opinion resulted in a long and at times an almost bitter struggle in Congress, particularly at the other end of the Capitol, and it was because of those differences that these two Territories failed of admission at that time.

The Constitution of the United States provides—

New States may be admitted by the Congress into this Union—

but leaves the method of admission to the Congress. Few States heretofore admitted have had objectionable provisions in their proposed constitutions, and the most notable, perhaps, of any whose constitutions have contained objectionable provisions was the State of Oklahoma, which I have the honor to represent in part. There were a number of provisions in our constitution which are almost identical with certain of the provisions of the constitution of Arizona, and it was seriously questioned at the time of our admission whether our constitution with respect to the initiative and referendum was republican in form. However, the Congress left that question to be determined by the President of the United States, who approved the constitution in that form and issued his proclamation admitting Oklahoma to the Union.

Personally, I do not believe that the provisions for the initiative and referendum are repugnant to the Constitution of the United States. The evident purpose of these provisions is: First, that the people may direct legislative bodies by themselves initiating the kind and character of legislation desired; second, that the people may pass judgment upon important legislation, and approve or disapprove at the ballot box legislative acts before they become effective. It has always been my contention that the constitution of Oklahoma does not give the initiative and referendum a fair chance, for the reason that two-thirds of both branches of the State legislature, by voting for a measure, may preclude the possibility of any expression whatever on that measure by the people of my State, and I have the same objection to the provisions in the constitution of Arizona, for the reason that it is almost verbatim with the constitution of Oklahoma, and the meaning is exactly the same.

The particular provision to which I refer in the Arizona constitution reads as follows:

(3) The second of these reserved powers is the referendum. Under this power the legislature, or 5 per cent of the qualified electors, may order the submission to the people at the polls of any measure, or item, section, or part of any measure, enacted by the legislature, except laws immediately necessary for the preservation of the public peace, health, or safety, or for the support and maintenance of the departments of the State government and State institutions; but to allow opportunity for referendum petitions, no act passed by the legislature shall be operative for 90 days after the close of the session of the legislature enacting such measure, except such as require earlier operation to preserve the public peace, health, or safety, or to provide appropriations for the support and maintenance of the departments of State and of State institutions: *Provided,* That no such emergency measure shall be considered passed by the legislature unless it shall state in a separate section why it is necessary that it shall become immediately operative, and shall be approved by the affirmative votes of two-thirds of the members elected to each house of the legislature, taken by roll call of ayes and nays, and also approved by the governor; and should such measure be vetoed by the governor, it shall not become a law unless it shall be approved by the votes of three-fourths of the members elected to each house of the legislature, taken by roll call of ayes and nays.

The intent of this provision is to refer to the people, if thought necessary either by the legislature or by 5 per cent of the qualified electors, any measure except laws immediately necessary for the preservation of the public peace, health, or safety, or for the support and maintenance of the departments of the State government and of the State institutions.

But four years of operation under this provision in Oklahoma's constitution has proven conclusively its ineffectiveness with a vicious or incompetent legislature which cares nothing for the spirit of the constitution. The first legislature of Oklahoma had a Democratic majority of more than two-thirds in each house. They were intensely partisan; their principal business was to play politics—the constitution and the people be damned—as is evidenced by the fact that out of 213 legislative acts they evaded this constitutional provision in 149 of them by declaring with a two-thirds majority that the act passed was for the preservation of the public peace, health, and safety.

For example, the following are some of the acts to which the emergency clause was attached, acts which show on their face the incompetency and stupidity of the men who were supposed to represent the people. At the time of the convening of the legislature we had a nonpartisan election law, which was changed by that legislature and supplanted by the most infamous election law this country has ever known; and to accomplish their purpose and to prevent its going to the people for approval or disapproval they attached the emergency clause, and declared that this law was for the public peace, health, and safety, thereby taking advantage of a constitutional provision the supposed purpose of which was to protect the people from just this kind of a legislature, and using it to further their own vicious political purposes, stultifying themselves and degrading our constitution.

I sincerely hope that no legislative body could be found in any other State of the Union which would exhibit such a studied purpose to evade the spirit of the constitution of its State, but as a precaution against such vicious legislative conduct, I trust that Arizona will take advantage of the experience of the people of Oklahoma and amend this paragraph so that there may be no way for her future legislatures to pervert it, avoid it, or misconstrue its meaning.

While I have never been an advocate of the principle of the initiative and referendum, yet I see no great disadvantage in them save and except the probability of the multiplying of elections and the expense incident thereto, as well as the agitation and fomentation which are always the natural product of too frequent campaigns. Without the initiative and referendum, the people at recurring elections select new representatives where the old ones have been unfaithful to a trust or reelect the old ones where they have proven competent and efficient. Mistakes always have been and always will be remedied by the people, and the only advantage of the initiative and referendum is that the people bear the additional expense for an earlier expression of approval or disapproval at the polls of that which the legislature has enacted into law.

If the people of Arizona want the initiative and referendum, they are entitled to it; but they should have the genuine article, so as to give it a fair chance, and not a mere pretense such as we have in Oklahoma.

The trouble with the initiative and referendum provisions of Oklahoma's constitution is that they were written for campaign purposes and not for an effective and basic organic law of a great State. The members of that convention in the preceding campaign had taken advantage of every political fad and fancy. Many of them had promised openly that they would be for and *privately* that they would not be for this and that provision, as occasion might demand. It was a campaign of promises and empty pledges by persons who had no record from which they could be judged, and under such conditions it was but natural they should straddle all questions where there was a difference of opinion. The Democratic Party had an overwhelming majority in that convention, and they knew as soon as the constitution was completed they must go before the people immediately in another campaign. They wanted the vote of those who were for the initiative and referendum and they must have the vote of those opposed to the initiative and referendum. Hence our constitutional provision, which is meaningless with respect thereto, when a political party is strong enough to kill it by a two-thirds vote.

But I have not mentioned the only instance where they were able to disregard and trample under foot this provision of our constitution. For example, on page 90 of the constitution of Oklahoma, section 35 reads as follows:

SEC. 35. All debts and indebtedness authorized to be incurred by the constitutional convention of the proposed State of Oklahoma, and all expenses of holding the election for the ratification or rejection of this constitution and for the election of officers of a full State government, which shall remain unpaid after the appropriation made by the Congress of the United States has been exhausted are hereby assumed by the State; and it is hereby made the duty of the legislature at its first session to provide for the payment of same: *Provided*, That the debts and indebtedness the payment of which is hereby assumed by the State shall not include any debt or expense as a salary or compensation of the delegates of the constitutional convention.

The House will observe that all expenses incurred by the constitutional convention not appropriated for by Congress in the enabling act were assumed by the State except the salaries or compensation of delegates to the constitutional convention. You ask why this provision in our constitution. That same question has been asked many times by people who do not understand conditions as they existed at that time in Oklahoma. That constitutional convention had taken six months to write a constitution where the average constitutional conventions of the different States had taken less than 30 days. The people were indignant at the time used and the expenses incurred by the convention, and this indignation was understood by the members to such an extent that when they had under discussion the question of the recall, during the latter days of the convention, the president of the convention stated that if they had the recall at that time there would not be enough of the members left to constitute a quorum; and the facts are that they were forced to insert the frivolous provision in the organic law of a great State that the State would not assume the payment of their salaries, with the hope of reestablishing themselves and of gaining the favor of the people for the coming campaign. And they never failed to mention in their speeches that while the constitutional convention was expensive the members had refused to take their salaries.

But when the legislature met, immediately after the election, that overwhelming Democratic majority not only voted to pay the salaries of the members of the convention, but they declared that it was for the public peace, health, and safety of the people to do it. Suppose in this case they had not made a plaything of our constitution and had not thrown to the winds the rights of the people, and had referred this question of their salaries to the people so short a time after their pledges that they never would take their salaries. The provision would have been overwhelmingly defeated at the polls. But they not only failed to refer it to the people, but by their act in attaching to it this public-peace, health, and safety clause they nullified that provision of the constitution which was supposedly the guaranty to the people of the right of the referendum.

These are only two examples of the 149 measures of similar character which were passed with the attached emergency clause for the peace, health, and safety of the people. Had we not had so recent an example, an object lesson so entirely conclusive as to its effect, we would think such procedure in a civilized community beyond the limit of legislative perfidy. It has been suggested that the people of Arizona would not take such advantage of their own constitution. That may be true, but inasmuch as it has been done in another State it is not at all improbable that at some time in the future the same vicious practices may be repeated in Arizona; and it is for that reason that I am now calling the attention of Congress and the country as well as of the people of Arizona to the villainy which may be consummated under this provision of their proposed constitution.

Now, as to the provision for the recall in this proposed constitution. I never have been and am not now in favor of that provision. While I do not believe anything serious would come of it, except as to the judiciary, yet I am not of the opinion that any good can follow. The average tenure of office in the United States, both in Federal and State offices, is very short as compared with other countries. For instance, a Member of Congress must meet the judgment of the people every two years, leaving scarcely time to call and hold an election before his term of office has expired.

The same is true of the State legislatures of the various States, they seldom having a provision for more than two years of service. That, in my judgment, is only a sufficient length of time to give any officer a fair chance to be understood by his constituents. If he makes a mistake, his own party, as a rule, repudiates him, for the reason that the strongest and best men of the country must be presented for the judgment of a reading and intelligent people. And in a country where we have a government by political parties, as is always the case in every representative government, every public officer must stand the test of accusations from the opposing political party, of being continuously watched, of having his every official act scrutinized, a condition which leaves a very narrow margin for the public official, and one which, I believe, renders absolutely unnecessary this provision of the recall.

That which I have said regarding public officials in general, and a great deal more, may be said of the judiciary of the States

of the Union. Their tenure is short; their business is to settle the differences of contending litigants, and no difference how able nor how just the judge, the defeated litigant will complain. It is always an easy matter to get 20 per cent of the opposition party to petition for the removal of any officer, judges included. And when you inaugurate the recall under the provisions of this constitution, the weaker of the judiciary may dodge the questions so necessary to be settled honestly, squarely, and fairly upon the law and the evidence without fear or favor. And not only that; the real lawyer, the conscientious jurist, the man of splendid and superior qualities—in other words, the very kind of man whom we should seek for the bench—would not hazard his reputation for discretion, fairness, and integrity by submitting himself to the dissatisfaction of contending litigants, the machinations of opposing political parties, and the passing whim of malcontents.

What we should have is the best judicial material of the country. Without the recall we may have it; with the recall it is impossible to get it. There may be isolated cases of unfaithful judges, but the rule is entirely the other way. Our confidence in the American judiciary has thus far seldom been misplaced. Under the present practice we obtain the highest standard of American citizenship for the bench. Under this proposed constitution, I am convinced, that standard will be lowered rather than elevated. It may do but little harm to test it, but I have looked in vain for its justification.

It is my hope that New Mexico and Arizona may be admitted to the Union, and I hope to see them admitted on an equal footing with the other States. I have confidence enough to believe that their people will ultimately work out their own salvation, but I should like to see them come without this expression of distrust embodied in the fundamental law of their States.

Mr. FLOOD of Virginia. Mr. Chairman, I yield 50 minutes to the gentleman from New York [Mr. LITTLETON]. [Applause.]

Mr. LITTLETON. Mr. Chairman, I did not intend when this discussion began, and as it proceeded, to take part in it. In fact, I was willing then, as I am willing now, to vote for the admission of New Mexico and Arizona into the Union with or without the amendments that are suggested in the report of the committee. My reason for occupying the time of the committee and for soliciting a portion of the time from the chairman is that there has been disclosed in the debate, and there is disclosed in one of the constitutions submitted, a tendency, if not an announced principle, which primarily as an American, but, secondarily, as a Democrat, I protest against.

I have fully realized in my short service here that however active I may have been at the bar, it leaves me new, young, and unsteady on my feet in the great parliamentary business of this country, and I would willingly have foregone the opportunity and the honor of submitting my views at this time under the apprehension which grew out of that unsteadiness, if I did not feel constrained by what I believe to be a sense of public duty, to call the attention of the committee to the objections which I entertain against these tendencies and the principle announced in the Arizona constitution.

I share with the most democratic of Democrats the conviction that all power resides finally in the bosom of the whole people, and I share with them their enthusiastic support of the proposition that this power may be exercised by the people to alter or to abolish the government under which they live. But I think it would be prudent and wise if we should for a moment reexamine the structure of our own Government, and particularly that instrument for public control which was fashioned by the hands of our forebears, which for more than a hundred years has sustained a great civilization and which has enabled us to take our place among the nations of the earth.

The structure of this Government, as I understand it, and the structure which has been more or less imitated by our State governments which have lately come into the Union and those State governments which are comprised in the original Thirteen States, was, as I have become fully convinced, distinctly, intentionally, and wholly representative in form.

Much has been said here in this discussion as to what is meant by "republican form of government." The clause in the Constitution under which this discussion has been had is rather unusual in its phraseology. It says:

> The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the legislature or of the executive against domestic violence.

I should have been pleased, Mr. Chairman, could I persuade myself that the language employed in that section of the Constitution, referring to a republican form of government, really meant a guaranty of representative government. In the first investigation which I attempted to make I did, indeed, persuade myself that what was intended was that there should be a guaranty of a representative form of government, and that any government which did not rise to the standard of a representative form of government would not meet the requirements of this section of the Constitution. I must, however, in the utmost candor, admit that I have not been able to vindicate wholly the position in which I first found myself, and I am not now able to say that I believe that the words "republican in form," as here used, carry with them a guaranty of a distinctly representative form of government. If I did so, I would not vote for the admission of Arizona into the Union; and, I am free to confess, I would not know how to treat those States in the Union which have adopted the initiative, referendum, and recall, which I sincerely believe to be opposed to a representative form of government.

But on an examination of the authorities with which, and for the submission of which, I crave the indulgence of the committee, I find the best authority upon the question does not use the words "republican" and "representative" in anything like a synonymous sense. Mr. Cooley says:

> The principles of republican government are not a set of inflexible rules, vital and active in the Constitution, though unexpressed, but they are subject to variation and modification from motives of policy and public necessity; and it is only in those particulars in which experience has demonstrated any departure from the settled practice to work injustice or confusion that we shall discover an incorporation of them in the Constitution in such form as to make them definite rules of action under all circumstances.

May I draw the attention of the committee to a brief examination of our exact position in the effort to distinguish between a representative and a republican form of government, and in that connection may I ask you to consider the further declaration of Mr. Cooley in his work on constitutional limitations? He says:

> In every sovereign State there resides an absolute and uncontrolled power of legislation. In Great Britain this complete power rests in the Parliament; in the American States it resides in the people themselves as an organized body politic. But the people, by creating the Constitution of the United States, have delegated this power as to certain subjects and under certain restrictions to the Congress of the Union; and that portion they can not resume, except as may be done through amendment of the National Constitution. For the exercise of legislative power, subject to this limitation, they create, by their State constitution, a legislative department upon which they confer it; and, granting it in general terms, they must be understood to grant the whole legislative power which they possessed, except so far as at the same time they saw fit to impose restrictions.

Just what is now proposed in the Arizona constitution—

> While, therefore, the Parliament of Great Britain possesses completely the absolute and uncontrolled power of legislation, the legislative bodies of the American States possess the same power except, first, as it may have been limited by the Constitution of the United States, and, second, as it may have been limited by the constitution of the State. A legislative act can not therefore be declared void, unless its conflict with one of these two instruments can be pointed out.

Now, the proposition in the Arizona constitution is to reserve to the people of Arizona the right to initiate legislation upon a certain percentage, and also to reserve to them the right to compel the submission to them of legislation which has been wholly or partially enacted.

I am well aware of the earnestness of the advocates of the initiative, referendum, and recall. I have heard upon this floor the assertion that to oppose them is practically to distrust the people. Let me call the attenion of my friends to the fact that by this proposed program they are confounding and confusing the power of the people to erect a great organic structure of a State with the power of ordinary legislation conferred upon the legislative branch of that State. They seem to have lost sight of the fact that when there is a constitution, as there no doubt will be in Arizona, and the people, in addition to that, initiate legislation, as they no doubt will, as that legislation is adopted by the people, the difference between the organic law as it is written in the constitution and the initiative legislation which they propose to adopt will be one of form rather than of substance, for the organic law and the legislation thus adopted will be no different in source or no different in the method of adoption, and therefore primarily will be the law arising from the supreme expressed will of the people; and every act of the people, either by initiative legislation or by legislation which has gone through the process of the referendum, will derive its force and its power from exactly the same source as does the constitution.

Let me submit, Mr. Chairman, for a moment to the consideration of the committee what I regard as the best definition available to me of a constitution:

> What is a constitution? It is a form of government delineated by the mighty hand of the people in works in which the first principles of fundamental law are established. The constitution is certain and fixed. It contains the permanent will of the people and is the supreme law of the land. It is paramount to the power of the legislature, and can be revoked and altered only by the power that made it.

That is from a decision in Second Dallas of our Supreme Court Reports. And may I submit another definition? The supreme court of Arkansas said:

What is a constitution? The constitution of an American State is the supreme, organized, and written will of the people acting in convention, assigning to the different departments of the government their respective powers. It may limit and control the action of those departments, or it may confer upon them any extent of power not incompatible with the Federal compact. By an inspection and examination of all the constitutions of our country they will be found to be nothing more than so many restrictions or limitations upon the departments of the government and the people.

Taking the initiative separately and apart from the referendum in the Arizona constitution, what is it designed to accomplish? Our friends say, "We desire to place in the hands of the people the power to initiate legislation which a legislature may have failed to initiate." They say that those of us who are opposed to their program have shown a distrust of the people. Let me call their attention to the fact that it is not a matter of right or power. It is really a matter of sound wisdom in the conduct of a great government. Those who went before us, and laid deep those foundations to which we so often recur and with which we so often consult, knew that it was necessary and wise to guard against the power of the majority just as it had been necessary and wise to guard against the power of a tyrant in a monarchy. [Applause.]

Those men understood—they had drunk deep drafts of information from the great wells of the lawgivers of the earth—that they must so construct the organic law of this land that there should be embedded within it great and sacred rights against which neither the protests of the minority nor the passions of the majority should prevail, and that the final determination of the rights of both should find its lodgment in the great judicial system of this country.

You say—those of you who are in favor of this program—that you wish to put it in the power of the people to initiate legislation in your State. Where, in the final and full philosophy of your doctrine, will your Supreme Court be? What will be its status? You may write into the Arizona constitution that any law that conflicts with that constitution shall be unconstitutional and the courts may so declare it; but if you give to the people of that State the power, through the legislature, or in conjunction with the legislature, to make any day in the year by the initiative any law, or to have referred to them any law proposed by the legislature, you are in fact providing for legislation, in the ordinary sense, whose source, whose power, and whose binding effect shall be as great and as final as the organic law expressed in your constitution.

What will be the attitude of the courts of the State if they are called upon to review a legislative act which has been brought about by the initiative through the medium of the people? How will they approach the question of declaring that kind of a law to be in conflict with the constitution of the State, especially when they know that it and they spring from the same source?

I say, my friends, you may protest that it is a distrust of the people, but it is really yourselves who are destroying trust in the people—that supreme and definite trust which was created in the inception and which has been maintained in the development of this Government. You say to me that I do not trust the people, but I tell you that I trust them more than you do, for I trust them to choose their representatives and to compel their representatives to respond to their will, to do their final bidding, to represent them, and to achieve for them in a representative capacity what the people themselves in their multifarious occupations can not achieve. You who favor these particular laws do not trust the people because you are not willing that they should choose their representatives, and you have not faith in them that they can compel their representatives to respond to their will.

The referendum in all its essentials does not differ from the initiative. Our friends have said to us, and we have seen it published, but without foundation, that there has been a breakdown in representative government. Mr. Chairman, I challenge any man to find any era in American history in which the legislative and executive branches of the Government have been so keenly sensible of the popular will as they are to-day. There may be occasions, there may be places, in which there has been a breakdown, but as a general proposition it is not true. The whole world to-day is governed by some system of representation—in science, in art, in commerce, in banking, in law, in scholarship—wherever the human race has made any progress or advancement. If you will analyze the sources of that development you will find that it has resulted and depends upon the judgment of those who have the selection of the man, and the final fulfillment of that judgment by that man in his representative capacity.

Let me draw your attention to the early opinions of the great statesmen of this country on the question of representative government. Mr. Webster said, in the case of Luther *v.* Borden, in the Seventh of Howard:

Let me state what I understand these principles to be. The first is, that the people are the source of all political power. Everyone believes this. Where else is there any power? There is no hereditary legislature; no large property; no throne; no primogeniture. Everybody may buy and sell. There is an equality of rights. Anyone who should look to any other source of power than the people would be as much out of his mind as Don Quixote, who imagined that he saw things which did not exist. Let us all admit that the people are sovereign. Jay said that in this country there were many sovereigns and no subject. A portion of this sovereign power has been delegated to government, which represents and speaks the will of the people as far as they chose to delegate their power. Congress have not all. The State governments have not all. The Constitution of the United States does not speak of the government. It says the United States. Nor does it speak of State governments. It says the States, but it recognizes governments as existing. The people must have representatives. In England the representative system originated not as a matter of right, but because it was called by the king. The people complained sometimes that they had to send up burgesses. At last there grew up a constitutional representation of the people. In our system it grew up differently. It was because the people could not act in mass, and the right to choose a representative is every man's portion of sovereign power. Suffrage is a delegation of political power to some individual. Hence the right must be guarded and protected against force or fraud. That is one principle. Another is that the qualification which entitles a man to vote must be prescribed by previous laws directing how it is to be exercised, and also that the results shall be certified to some central power so that the vote may tell. We know no other principle. If you go beyond these, you go wide of the American track. One principle is that the people often limit their government; another, that they often limit themselves.

Let us turn from New England to the South and consult a southern writer upon this subject. Our minds naturally turn to that distinguished and venerable Virginian, who so long adorned this Chamber and at whose feet so many men in America gathered instruction and learning, John Randolph Tucker, of Virginia. He said:

Representation is the modern method by which the will of a great multitude may express itself through an elected body of men for deliberation in lawmaking. It is the only practicable way by which a large country can give expression to its will in deliberate legislation. Give the suffrage to the people, let lawmaking be in the hands of their representatives, and make the representatives responsible at short periods to the popular judgment, and the rights of men will be safe, for they will select only such as will protect their rights and dismiss those who, upon trial, will not. True representation is a security against wrong and abuse in lawmaking.

If we leave these great and wise philosophers to one side and consult the Supreme Court of the United States, we will find, in the case of In re Duncan (139 U. S.), that court adopting the language of Mr. Webster, just quoted, and proceeding further to say:

By the Constitution a republican form of government is guaranteed to every State in the Union, and the distinguishing feature of that form is the right of the people to choose their own officers for governmental administration and pass their own laws in virtue of the legislative power reposed in representative bodies, whose legitimate acts may be said to be those of the people themselves. But while the people are thus the source of political power their governments, National and State, have been limited by written constitutions, and they have themselves thereby set bounds to their own power as against the sudden impulses of mere majorities.

Then the Chief Justice takes up Mr. Webster's argument in the case of Luther *v.* Borden, and he says:

Mr. Webster's argument in that case took a wider sweep and contained a masterly statement of the American system of government as recognizing that the people are the source of all political power, but that as the exercise of governmental powers immediately by the people themselves is impracticable they must be exercised by representatives of the people; that the basis of representation is suffrage; that the right of suffrage must be protected and its exercise prescribed by previous law and the results ascertained by some certain rule; that through its regulated exercise each man's power tells in the constitution of the government and in the enactment of laws; that the people limit themselves in regard to the qualifications of electors and the qualifications of the elected, and to certain forms for the conduct of elections; that our liberty is the liberty secured by the regular action of popular power, taking place and ascertained in accordance with legal and authentic modes; and that the Constitution and laws do not proceed on the ground of revolution or any right of revolution, but on the idea of results achieved by orderly action under the authority of existing governments, proceedings outside of which are not contemplated by our institutions.

I could multiply the authorities on this subject, Mr. Chairman, but, as my time is limited, I shall call the attention of the committee to but a few more. It has been held in this country by a court of respectable standing that laws enacted by the people in the method proposed in the Arizona constitution are in contravention of the Constitution of the United States. For example, in the case of Rice *v.* Foster, in the State of Delaware, it has been held:

Although the people have the power, in conformity with its provisions, to alter the Constitution, under no circumstances can they, so long as the Constitution of the United States remains the paramount law of the land, establish a democracy or any other than a republican form of government.

And this, the court went on to declare, would in effect be done should the electorate be given a direct legislative power.

In the State of New York, in the case of Barto *v.* Himrod, the court said:

It is not denied that a valid statute may be passed to take effect upon the happening of some future event, certain or uncertain. But such a statute, when it comes from the hand of the legislature, must be a law in præsenti to take effect in futuro. * * * The event or change of circumstances on which a law may be made to take effect must be such as in the judgment of the legislature affects the question of the expediency of the law; an event on which the expediency of the law, in the judgment of the lawmakers, depends. On this question of expediency the legislature must exercise its own judgment definitely and finally. * * * But in the present case no such event or change of circumstances affecting the expediency of the law was expected to happen. The wisdom or expediency of the free-school law, abstractly considered, did not depend on a vote of the people. If it was unwise or inexpedient before that vote was taken, it was equally so afterwards. The event on which the act was made to take effect was nothing else than the vote of the people on the identical question which the Constitution makes it the duty of the legislature itself to decide. * * * The government of the State is democratic, and it is a representative democracy, and in passing general laws the people act only through their representatives in the legislature.

In addition to this, let me call your attention to so eminent an authority as Mr. Madison, in so far as what he says may apply to the proposed program in the Arizona constitution; for the question here really is, Shall we descend from the established position of a representative government to try the uncertain experiment of pure democracy upon a great continent? Mr. Madison said:

From this view of the subject it may be concluded that a pure democracy, by which I mean a society consisting of a small number of citizens who assemble and administer the government in person, can admit of no cure for the mischiefs of faction. A common passion or interest will in almost every case be felt by a majority of the whole; a communication and concert result from the form of government itself, and there is nothing to check the inducements to sacrifice the weaker party or an obnoxious individual. Hence it is that such democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property, and have in general been as short in their lives as they have been violent in their deaths.

A republic, by which I mean a government in which the scheme of representation takes place, opens a different prospect and promises the cure for which we are seeking. Let us examine the points in which it differs from the pure democracy and we shall comprehend both the nature of the cure and the efficacy which it must derive from the union.

The two great points of difference between the democracy and a republic are: First, the delegation of the government in the latter to a small number of citizens elected by the rest.

* * * The effect of the first difference is, on the one hand, to refine and enlarge the public views by passing them through the medium of a chosen body of citizens whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations. Under such a regulation, it may well happen that the public voice, pronounced by the representatives of the people, will be more consonant to the public good than if pronounced by the people themselves convened for the purpose.

Now, permit me to read a quotation from Mr. Jefferson upon this subject, in a letter which he wrote to M. Coray:

Modern times have discovered the only device by which the equal rights of man can be secured, to wit, government by the people acting not in person but by representatives chosen by themselves—that is to say, by every man of ripe years and sane mind who either contributes by his purse or person to the support of his country.

I could go further and assemble such authorities and with him others of the great men who illumined the literature of the world with the Federalist. I could quote Watson and Cooley and Story. I will for a moment go back to John Stuart Mill and call attention to the very fountain source of the one great work distinctly devoted to representative government. Mr. Mill says:

From these accumulated considerations it is evident that the only government which can fully satisfy all the exigencies of the social state is one in which the whole people participate; that any participation, even in the smallest public function, is useful; that the participation should everywhere be as great as the general degree of the improvement of the community will allow; and that nothing less can be ultimately desirable than the admission of all to a share in the sovereign power of the State. But since all can not, in a community exceeding a single small town, participate personally in any but some very minor portions of the public business it follows that the ideal type of a perfect government must be representative.

Let us consider for a moment later authorities upon the subject, and among them we must not overlook the distinguished governor of New Jersey, who occupied so conspicuous a place as president of Princeton University and who has written so ably and well upon this subject. He says, among other things:

It is for this reason as much as for any other that the balance of power between the States and the Federal Government now trembles at an unstable equilibrium, and we hesitate into which scale to throw the weight of our purpose and preference with regard to the legislation by which we shall attempt to thread the maze of our present economic needs and perplexities. It may turn out that what our State governments need is not to be sapped of their powers and subordinated to Congress, but to be reorganized along simpler lines which will make them real organs of popular opinion. A government must have organs; it can not act inorganically, by masses. It must have a lawmaking body; it can no more make law through its voters than it can make law through its newspapers.

[Applause.]

Mr. Wilson in another book reviewed deliberately the situation of Switzerland, and said:

So far has the apparent logic of democracy been carried in Switzerland that the people exercise in several ways a direct part in lawmaking. The right of petition, which is recognized in every country where popular rights exist at all, has become in Switzerland a right of initiative legislation.

Then he discusses the application of the policy there. He says:

The initiative has been very little used, having given place in practice, for the most part, to the referendum. Where it has been employed it has not promised either progress or enlightenment, leading rather to doubtful experiments and to reactionary displays of prejudice than to really useful legislation. In both of the great Cantons of Zurich and Berne, the most populous and influential in the confederation, it has been used to abolish compulsory vaccination. It was established for the confederation only six years ago (1891), and has been used in federal legislation only to aim a blow at the Jews, under the disguise of a law forbidding the slaughtering of animals by bleeding.

In reference to the referendum Mr. Wilson says:

It is still tested only in part. It has led in most cases to the rejection of radical legislation, even to the rejection of radical labor legislation, such as the ordinary voter might be expected to accept with avidity. The Swiss populations, being both homogeneous and deeply conservative, have resisted, as perhaps no other people have, the infection of modern radical opinion. They have shown themselves apt to reject, also, complicated measures which they do not fully comprehend, and measures involving expense which seems to them unnecessary. And yet they have shown themselves not a little indifferent, too. The vote upon most measures submitted to the ballot is usually very light; there is not much popular discussion; and the referendum by no means creates that quick interest in affairs which its originators had hoped to see it excite. It has dulled the sense of responsibility among legislatures without in fact quickening the people to the exercise of any real control in affairs.

[Applause.]

Mr. LAFFERTY. Mr. Chairman, I would like to ask the gentleman to yield for the purpose of permitting the reading of a short paragraph containing a statement by Gov. Woodrow Wilson in Oregon on the 17th day of the present month, on the subject upon which the gentleman has been addressing the committee.

The CHAIRMAN. Does the gentleman from New York yield to the gentleman from Oregon?

Mr. LITTLETON. I will say to the gentleman from Oregon that it will give me much pleasure to give him part of my time or part of anything else that I may possess or enjoy, but I have been allotted only one hour of time, and the necessities of the moment prevent me from yielding.

Mr. MANN. I suggest, Mr. Chairman, that we on this side could give additional time to the gentleman from New York.

The CHAIRMAN. The gentleman from New York has the floor.

Mr. LITTLETON. Mr. Chairman, I did not understand the remark of the gentleman from Illinois [Mr. MANN].

Mr. MANN. I suggested, Mr. Chairman, that additional time could be yielded to the gentleman from New York.

Mr. LAFFERTY. This is a statement made by Gov. Woodrow Wilson while within the confines of the great State of Oregon. I commend most of his statements. This is taken from the Oregonian, of Portland, Oreg., of May 18, 1911. It says:

The laws of recent years adopted in this State seem to me to point the direction which the Nation must also take before we have completed our regeneration of a Government which has suffered so seriously and so long from private management and selfish organization. Primary laws should be extended to every elective office and to the selection of every committee or official in order that the people may once for all take charge of their own affairs.

To nullify bad legislation the referendum must be adopted, and it is only a question of time until it will be extended to the Nation. The better education of the people through the various States, of which Oregon was the first, will enable them to pass intelligently upon national measures. In such manner will popular government be lifted from the ranks of theory to actuality and a democracy which represents the will of the people be established.

I have not yet made up my mind on the subject of the recall of the judiciary. I am open to conviction, but I as yet fail to see where it would be a wise law in many respects, as fear of the people's displeasure might lead some judges to cater more to popular expression than to an interpretation of the law. It is a great problem and must be approached cautiously.

[Applause.]

The CHAIRMAN. Does the Chair understand that the gentleman from Pennsylvania [Mr. LANGHAM] yields to the gentleman from New York an amount of time equivalent to the amount consumed by the gentleman from Oregon?

Mr. LANGHAM. Yes.

The CHAIRMAN. It is three minutes.

Mr. LITTLETON. Now, Mr. Chairman, I did not hear all that was read by the gentleman from Oregon, but I think I know what he read from the little I did hear. I have submitted the authority of the scholar, the student, the thinker, and the philosopher upon civil government. I prefer to accept that as a riper and a wiser opinion than any fugitive utterance

made in the friction of politics—even though it was made in the great State of Oregon. [Prolonged applause on the Democratic side.]

Mr. LAFFERTY. Will the gentleman yield for a question?

Mr. LITTLETON. I can not yield any of my time.

The CHAIRMAN. The gentleman declines to yield.

Mr. LITTLETON. I will yield if the gentleman from Pennsylvania [Mr. LANGHAM], on the other side, will pay it back to me. [Laughter.]

Mr. LAFFERTY. For one question—a question of one sentence?

The CHAIRMAN. The gentleman from New York declines to yield.

Mr. LITTLETON. Mr. Chairman, my time has about expired and I shall omit references to other branches of the initiative and referendum which I had intended to discuss. Let me say, however, that as popular suffrage is not a matter of right, but a matter of privilege to be conferred by the States, and as it may be limited or unlimited, according as the judgment of the State may dictate, and as it is claimed in this debate that the whole power of government resides in the people, the foundation of the initiative and referendum is logically unsound. If the initiative and referendum had been a part of the scheme of government of the Original Thirteen States, with their qualified suffrage, it would have been far from being a truly democratic Government.

I wish to close my remarks with a reference to what I regard as the third and last of the three great errors proposed, and that is the recall of officers.

I may say what I am sure even my most bitter opponents will not dispute: That you can not procure the services of a man in an important and remunerative situation in any civilized country of the world without entering into some general agreement with him as to the period of his service and the tenure of his employment. If the position is one that calls for great discretion and judgment, one which requires an exercise of authority and power, even though it be in a private employment, you will not find men accepting it with power on the part of the employer to recall him at the end of six months' service.

On the other hand, in the service of the Government, you will find that the civil service has striven for years and years against great difficulty not only to destroy the power of recall but to make it impossible to remove from the public service even subordinate employees who have proven themselves faithful and who are protected within the confines of the civil-service law.

I may say in a phrase that I believe the initiative, referendum, and recall to be the great trinity of modern errors and that they propose the prostration and destruction of representative government as it has been established in this country, as it has been maintained for over 100 years, and as it is being maintained to-day. [Applause on the Democratic side.] I do not say this in any sense from a distrust of the people. It is because I believe in the wisdom of the founders of our Government. I believe that a community may be able to choose a man to represent them and at the same time the same community be wholly incompetent to pass upon a statute, to enact a law, or to discriminate in legislation in such a way as to serve themselves or their country. Our fathers selected and founded the finest instrument for government that could have been fashioned in the light of the experience of all the ages, and that was a representative form of government. It is proposed in this constitution, in addition to the initiative and referendum, to allow 25 per cent of the voters at the last election to recall public officers of all classes within six months after their election. I can not understand how any gentleman can consider the initiative, referendum, and recall together. If you are going to strip the legislature of its power and provide that the people may initiate legislation, and, in addition to that, have legislation referred, then your legislators become simply a set of draftsmen whom you send there, and therefore there will be no occasion to recall them, because they will have nothing to do to be recalled for. [Applause on the Republican side.]

I can understand how you might impeach a legislator or other public officer for the betrayal of his trust, but I can not understand by what process of logic the initiative and the referendum and recall is to be applied distinctly to the legislative body. It is a departure from the traditions of our country, and, in my opinion, a debauchery of the law of impeachment. We have always understood that public officials, as well as private individuals, when charged with any offense must be accused in writing, must be confronted with the witnesses against them, must be allowed to answer, must be given an opportunity to be heard, and must be tried according to the due process of law. This is not so under the recall. It is in fact taking the seasoned and staid traditions of impeachment and translating them into a trial by tumult. The orderly processes of regulated justice are to be converted into a sporadic assault born of hate and disappointment. The dignified minister of the established law, ennobled by the grandeur of his lofty station and disciplined by the pressure of a sober responsibility, is to be degraded by the impending threat and distracted by the uncertainty of a precarious tenure.

The misguided or malignant passions of an unimportant fragment of the community may recklessly accuse the most stainless judge and by a groundless charge put suspicion in the place of confidence and distrust in the place of faith.

The lying litigant, baffled in his mendacious effort to subsidize the court to make secure his fabricated cause, lays his unscrupulous hand upon this ruthless weapon to strike from public esteem the upright judge.

The culpable confederates of the convicted criminal, audacious in that freedom which has foiled detection and angered at the thought that tardy justice has overtaken one of their members, can assemble and foment the necessary and irresponsible fraction to put on trial the conservator of public honor. The corporate bandit, marauding through the legitimate fields of honest commerce and finally condemned by the firm hand of an incorruptible court, can turn its passive chagrin into active revenge and summon sufficient of its dependents to write a recall.

The agrarian agitator, whose uplifted hand is always against the substance and the symbols of order, unable to write his crooked creed into the court's decrees, will call for venal volunteers to rebuke the judge who dared deny his loud protestations.

The reformer, whose righteous zeal and unbalanced judgment make him at once the most attractive and most dangerous of men, will find the courts archaic and too rigid bound to serve the elastic purpose of his pretentious program, and his honest wrath will stir the souls of his faithful followers to issue a recall in the name of all political virtue.

The "boss," who in the flush of full success sits in the shadow of the throne, and who even in defeat still reigns a mighty ruler in the empire of intrigue, will touch the mysterious sources of his unjust powers with deft and secret sign, and swarms of satraps will rise in mockery of the voice of an outraged community to indict the fearless judge.

The daring demagogue, whose eager ear catches the first sound of discontent and whose strident voice swells it into a volume of protest against oppression, whose whole platform is the appropriated grievances of the community, will make of the recall a recurring opportunity to put himself in flexible adjustment with the superficial sentiment of the community.

And upon what grounds, Mr. Chairman, is it proposed to recall the judges?

Does the Arizona constitution provide that they may be recalled for malfeasance or misfeasance?

Does it set any limitation upon this sudden impulse of dissatisfaction?

Does it attempt to protect the judiciary against the caprice of a meddlesome fraction of the community?

Does it seriously set down in writing the impeachable offenses?

You will look in vain for any limitation upon this reckless power.

The recall is a political indictment found without evidence, charging no offense, moral or legal, presented to the entire community as a court. The defendant is stripped of all presumptions. He can not answer the charge, because no charge is necessary to convict him.

The answer is made that the recall simply affords the judge an opportunity to go before the people at another election.

Yes; but how does he go? Does he go as a clean-hearted, clear-headed candidate, resting his claims upon his ability as a judge or his honor as a man? Does he go with pride gathered as the fruits of a useful life? Does he go as the embodiment of courage and patriotism? No; he goes with character dismantled by the attacks of those who would destroy him. He goes with his oath of office broken by the furtive whisperings of those who hold a grudge. He goes with his honor stained by the vulgar hands of the reckless accuser. He goes leaving his family at home in the shadow of disgrace. He goes impugned, impeached, outraged, and dishonored, not so much to regain the worthless office, but to restore his shattered fame and recover his foreclosed honor. [Applause.]

How will it finally affect the character of our judiciary? What ultimate contribution will it make to the stability of good government?

As I see it, the man of dignity and honor will not submit himself to the possibilities of degradation by the recall. No

one but the spineless seeker for office would place himself in the hands of an irresponsible fraction of the community. The idle invertebrate gambling on his versatile capacity to adjust himself to every whim of discontent and the caprice of every faction may lend his protean genius to this scheme of judge baiting.

The irresolute timeserver may speculate upon his negative ability to do and say nothing from which the community could draw any conclusion on any subject. [Applause.]

But the lofty character, the stout heart, and the ripe experience of the man fitted to determine the great issues of life, liberty, and property, will decline the probationary tenure.

How will it affect the rights of person and of property? How will it secure the impartial preservation of life, liberty, and property?

Suppose the recalled judge is sitting in judgment upon the life of a fellow citizen. Suppose the passions of the community are at white heat. Is not the judge on trial as well as the prisoner? Instead of holding the scales of justice with even hand and applying the law with fearless disregard of the results, is he not scanning the ugly faces of an angry mob and wondering who will be his accuser in the recall? Does he not search the inscrutable faces of the warring factions for the fatal percentage which will arraign him before the country on the recall?

Suppose the recallable judge is sitting to determine a controversy between employer and employed. Suppose on one side is organized labor and on the other organized capital. Does he meet the grave, economic, and legal questions as the great and dauntless minister of justice? Does he summon to his aid the juridical learning of the ages and invoke the spirit of passionless justice to guide him? Or does he see in the grim and earnest faces of the contestants the imminence of a recall which will put him to shame before his neighbors? [Applause.]

It will strike from the splendid structure of free government the arch upon which it has come to rest with unshaken confidence. It will cleave the very heart of a great representative democracy and enervate its vital forces. We look in vain for precedents, for no people ever dared to write such an example into their history. We make fruitless search for comparisons, but the intelligent nations of the earth have only contrasts to offer.

The examples of patriotism and courage in the history of English-speaking people are those of the unterrified judge holding together the almost dismembered governments.

We turn with unaffected pride to our own John Marshall, without whose genius and courage the history of our country might have been the chronicles of contending States. [Applause.]

Mr. Chairman, wherever we turn in the history of all peoples and nations we read a protest against the degradation of our judiciary. There is no case or occasion in history, sacred or profane, which so graphically reveals the supine judge as does the almost piteous protestations of Pilate against the brutal cry of the mobs:

And the whole multitude of them arose, and led him unto Pilate.
And they began to accuse him, saying, We found this fellow perverting the nation, and forbidding to give tribute to Cæsar, saying that he himself is Christ a King.
And Pilate asked him, saying, Art thou the King of the Jews? And he answered him and said, Thou sayest it.
Then said Pilate to the chief priests and to the people, I find no fault in this man.
And they were the more fierce, saying, He stirreth up the people, teaching throughout all Jewry, beginning from Galilee to this place.
When Pilate heard of Galilee, he asked whether the man were a Galilean.
And as soon as he knew that he belonged unto Herod's jurisdiction, he sent him to Herod, who himself also was at Jerusalem at that time.
And when Herod saw Jesus, he was exceeding glad: for he was desirous to see him of a long season, because he had heard many things of him; and he hoped to have seen some miracle done by him.
Then he questioned with him in many words; but he answered him nothing.
And the chief priests and scribes stood and vehemently accused him.
And Herod with his men of war set him at nought, and mocked him, and arrayed him in a gorgeous robe, and sent him again to Pilate.
And the same day Pilate and Herod were made friends together: for before they were at enmity between themselves.
And Pilate, when he had called together the chief priests and the rulers and the people,
Said unto them, Ye have brought this man unto me, as one that perverteth the people: and, behold, I, having examined him before you, have found no fault in this man touching those things whereof ye accuse him:
No, nor yet Herod: for I sent you to him; and, lo, nothing worthy of death is done unto him.
I will therefore chastise him, and release him.
(For of necessity he must release one unto them at the feast.)
And they cried out all at once, saying, Away with this man, and release unto us Barabbas:
(Who for a certain sedition made in the city, and for murder, was cast into prison.)
Pilate therefore, willing to release Jesus, spake again to them.
But they cried, saying, Crucify him, crucify him.
And he said unto them the third time, Why, what evil hath he done? I have found no cause of death in him: I will therefore chastise him, and let him go.
And they were instant with loud voices, requiring that he might be crucified. And the voices of them and of the chief priests prevailed.
And Pilate gave sentence that it should be as they required.
And he released unto them him that for sedition and murder was cast into prison, whom they had desired; but he delivered Jesus to their will.

God forbid that the sanctuaries of justice in this country of America shall ever be ravished by the sibilant hiss of a mob crying, Crucify him! Crucify him! [Prolonged applause.]

Mr. LANGHAM. Mr. Chairman, before the general debate on this question closes, I want to say just a few words. Seven days have been consumed in general debate on this resolution proposing the admission of New Mexico and Arizona as States of the Union, and notwithstanding the weather has been extremely hot and uncomfortable the sessions have been long, the speechmaking practically unlimited as to the time, the arguments thoughtful and logical, and the eloquence unsurpassed. The attendance upon the sessions has been good and the interest has been intense; but in looking over the Chamber at the present moment it seems to me that I can discover that there is a general feeling of rejoicing among the Members that the general debate is so near a close, and I assure the Members that I shall not detract from their felicity by any prolonged remarks.

I simply want to state my position as a member of the Committee on the Territories. As indicated by the minority report of said committee, I am in favor of admitting New Mexico to the Union of States under the provisions of her proposed constitution, without any limitations whatever, and I am supported in that position by a unanimous recommendation of the Committee on the Territories of the Sixty-first Congress, and a unanimous vote of this House of the Sixty-first Congress, after a free, fair, and full discussion of New Mexico's constitution in its present form. As to Arizona, I am opposed to the admission into the Union of that State with the provisions of the recall of the judiciary written into her fundamental law. The question has been raised as to whether or not that recall provision renders that constitution unrepublican in form. I do not know whether it does or not and I do not care. The consideration of that proposition does not control my action, because I justify my course by holding that I have the moral right as well as the legal right to vote upon this proposition as seemeth best to me for the public good, and I do not believe that this constitution with the recall provision in it will result in the public good, and it may bring great harm to that new Commonwealth, and may bring harm to the older States, on account of the congressional recognition given to that doctrine and considered by many so dangerous.

And, unless I experience a very marked and pronounced change of heart, I will never be a sympathetic student in that great school of political thought that advocates that doctrine. By my vote I propose to extend the freedom and independence of the judiciary instead of limiting it and restricting it by any form of duress. Our forefathers sacrificed much for liberty, freedom, independence, and equal rights for the common people, and we, as Representatives of the common people in the greatest lawmaking body on earth, must concern ourselves in preserving and protecting those rights against the assaults that may come from any and all adversaries by keeping the judiciary above the prejudices, the whims, the vagaries, and the inconsiderate action of unthoughtful men. The opposition to this measure from either or both sides of this Chamber on account of the recall is not because of any desire to infringe or abridge the rights of the people, but to protect those rights. And when Arizona is admitted as a State, and I hope that time will soon come, with this objectionable feature eliminated, she will take her place in the sisterhood of States in perfect unison with the spirit of our American institutions, the perpetuity of which is the only hope of our progressive civilization. [Applause.]

Mr. Chairman, I propose to vote for the substitute as suggested in the minority report. [Applause.]

I now yield to the gentleman from Kansas [Mr. JACKSON].

Mr. JACKSON. Mr. Chairman, I had not thought of addressing the House upon this question until the repeated references to one of my constituents, whom I take the liberty of saying is one of the most distinguished men of our State, convinced me that in justice to him and in justice to the principles which dominate the political spirit of our State, I ought not to sit silent. Another thing, Mr. Chairman, I did not feel as a Republican that I wanted to sit idly by and see our friends on the other side of the aisle enjoy a monopoly, either "reasonable" or "unreasonable," of the popular ideas of government which obtain to-day

throughout the land. Within the last hour I have heard a speech which convinces me that the Democrats do not enjoy that monopoly; if any speech in this Hall since the beginning of this session is entitled to be denominated a defense of standpatism, it is the one just delivered by the gentleman from New York [Mr. LITTLETON].

In the short time which has been given me I will avail myself of the opportunity of expressing my ideas upon some of the problems of government which confront us to-day. I shall not, therefore, attempt to review the legislative situation here.

As I understand it, the enabling act passed upon the question of population, both the size of the population and its fitness to be admitted into the Union. If I understand the situation correctly, we are merely passing here upon the fact as to whether these constitutions presented by these two States comply with this enabling act, and whether these States present constitutions preserving a republican form of government. We find the men who are in a sense opposed to the most pronounced forms of popular government objecting to certain parts of the Arizona constitution because it provides for the recall of public officers. We find, on the other hand, men who are in favor of the more radical forms of popular government objecting to the New Mexico constitution because it does not provide a more liberal way in which that constitution may be amended.

Now, so far as I am concerned, addressing myself to these two amendments, I think the objections on each side of this question have been greatly exaggerated. It seems to me that the conservatives have become the alarmists in this debate. Why, think of it, my friends! You have listened here to one of the greatest lawyers of the country, representing a constituency from the borough of Brooklyn, who announces with all the eloquence at his command that the adoption of a constitution by the State of Arizona, which provides for the recall of judges, endangers the very Constitution of the United States, effects its repeal, and effectually kills the spirit of our Government. And my handsome friend from California, Mr. KAHN, who would certainly look well leading a revolution, talks to you about this same provision repealing the Constitution of the United States and ending in anarchy. And so we go on all through this debate, until *Hamilton* himself, who, it is said, yearned for an American house of lords, would have been perfectly satisfied could he have awakened to hear a few echoes from this debate and the accompanying assaults upon the right of the people to rule themselves. These assaults have not stopped with arguments against the recall of judges, but they have extended to the use of the initiative and referendum even in local affairs.

Now, my friends, I am in favor of giving both of these States the right to try the initiative and referendum if they want to. I am not alarmed about it. I possibly would not have worded the initiative and referendum clause as it has been worded in either of these constitutions, but what harm can result in these States, in adopting their constitutions, if they wish to devolve certain powers of legislating upon their people? I favor the trial of the initiative and referendum, because it is one of the evidences of the great forward movement of Democracy in this country of ours. And when I speak of that I have in mind something definite and not merely an intention of engaging in fulsome praise of the power of the people. What I do mean is that in this country of ours, regardless of what procedure we have had for recording the will of the people in the last 25 years, we have made a wonderful progress in developing the powers of a real Democracy. This progress has taken well-defined lines and can be readily traced and observed.

Now, I do not agree with much that has been said here about the original purpose of the Constitution of the United States. Great problems were to be worked out then. It was not the intention of the creators of the Constitution to stifle public opinion. They wrote into that document, as has been cited here many times on this floor in this debate, the fact that all political power resided in the people. What did they mean to do then? They undertook to provide a procedure by which the will of the people might be registered. It was not public opinion, but it was public clamor, that the Constitution of the United States sought to stay until it could be found out whether a substantial majority of the people were really in favor of a particular measure.

Much has been said about the checks which constitutional government placed upon the rights of the people to control the Government, but very little about the checks, more important than any others, which were placed on the power of those who were to be intrusted with the duty of ruling and which were intended to prevent the Government and those who were to administer it from abusing the powers granted to them and thus becoming tyrants, as the Government and its rulers before them had done.

The time is now here when the people feel that the methods outlined in the initiative and referendum measures, in local government, will operate as a check upon the tendency of legislators to fail in their duties. These measures will be an incentive to promptness in carrying out the people's will and a check upon the repeal of the people's laws or in violating their public rights.

It is conceded that in municipal affairs, questions of local taxation, and in the granting of franchises the initiative and referendum are of much value. I assert that the State under the Constitution is the proper unit of local government. It is more effective to-day as the unit of local government than ever before. Government in a sense is nothing more than communication of citizen with citizen and the cooperation which results from communication made manifest through agreements and the machinery of society.

The development of facilities for communication and the consequent bringing of people together has made the State governments more closely associated with the people than were the city governments of a generation ago. There is no reason why the procedure found beneficial in city governments may not be found so in the control of State affairs by the State's electorate.

If it be right for the people of a county to decide whether that county shall issue bonds to aid in constructing a railroad, it is also right that all the people of the State shall decide whether the State shall permit laws authorizing such bond issues.

If it be right for the people of a city to express an opinion as to whether a railroad shall have a franchise through that particular city, then it is right for the people of that city and every other city of the State to have something to say about the general laws relative to railway franchises and their control throughout the State.

If it be right for the people to control the levy of taxes for local schools, as it certainly is, and the local public schools are the corner stones of the foundation upon which rest the universities and other higher education, then the people have a right to a direct voice in the levy of the university and other taxes for higher education. Indeed, it may be laid down as almost axiomatic that the different parts of every State are so closely connected under our modern forms of society that each is interested in the other, and no general law should be enacted without consulting each and every part of the State. But it is said the people can not work out the details of these laws, for laws must be technically drawn. It might be a sufficient answer to say that neither can any considerable number of the legislators in any legislative body frame laws. But this objection brings us to another one, and I shall be pleased to answer both together. It has been frequently asserted in this debate that the initiative and the referendum and the recall are the devices of demagogues and of those who are seeking office by advocating popular theories.

But I shall be able to show, I think, that the ablest advocates of these governmental theories are men who are not candidates for office and who would not accept office; they have been humble workers, though sometimes mighty ones, in the ranks of the great movements which have accomplished the best things of our modern legislation. Indeed, for each and every man who has been prominent in advancing these and other measures tending to a wider democratic government who has sought or accepted office as a result of his public service I will show you 15 professional politicians who have maintained themselves in office and in the favor of some political machine by decrying popular government. The people are growing tired of too much political expediency and too little political efficiency in the affairs of public business.

Over and over again the assertion is made, principally on the Democratic side of this House, that this is a Government of political parties.

Mr. Chairman, I deny that statement in the sense in which it is so often made. The great forward movement of democracy which has taken place in this country in the last quarter of a century is not due to any party; it has affected both parties alike. It is here—and for the most part in spite of political machines—because it emanated from the hearts and minds of the great people of this country.

The mistake of the hour on the part of the Democratic Party is placing party caucus above the welfare of the country. Every day we are treated to the spectacle of some statesman rising on the other side of the House and delivering a panegyric on "my party," as he terms it, referring to the Democratic caucus and the Lord Almighty in the same breath, treating both as divine institutions, and too many times placing the former above the latter in importance.

But, Mr. Chairman, the evils of the oath-bound political caucus in Congress and outside of it have been fully as great as all the

good accomplished by the parties which have adopted and have been ruled by it. At some time in the future I shall endeavor to discuss this subject more in detail, but I shall not do so now. I shall content myself with the assertion, that to my mind the strongest attribute of the initiative and referendum is that it encourages citizens to form organizations independent of political parties, for the purpose of framing and advocating the enactment of laws in the interest of society in general. These activities of our citizenship constitutes one of the strongest forces of our democracy and the initiative and referendum gives it life and form and provides the procedure whereby its influence may gain more important results than ever before.

Now, I said in the beginning the name of Mr. William Allen White had been mentioned several times in this debate. His books are read wherever the English language is spoken and in many other countries besides. He did write "What is the matter with Kansas," but that article was not an indictment of popular government; it was an assault on the political caucus, a system which had turned over to hungry politicians the control of a sentimental public uprising which had its origin in a correct diagnosis of public ills. Mr. White has contributed much in the last few years to the literature of public questions, and I desire to read into the RECORD his description of the development of our modern democracy and the manner of its workings relative to organizations of our people independent of political parties and their ability to accomplish legislation. I read from his book, The Old Order Changeth, written in 1910, pages 51 to 64, inclusive:

Indeed, the growth of fundamental democracy in this country is astonishing. Thirty years ago the secret ballot was regarded as a passing craze by professional politicians. Twenty years ago it was a vital issue in nearly every American State. To-day the secret ballot is universal in American politics. Ten years ago the direct primary was the subject of an academic discussion in the University of Michigan by a young man named LA FOLLETTE, of Wisconsin. Now it is in actual operation in over two-thirds of our American States, and more than half of the American people use the direct primary as a weapon of self-government. Five years ago the recall was a piece of freak legislation in Oregon. To-day more American citizens are living under laws giving them the power of recall than were living under the secret ballot when Garfield came to the White House, and many times more people have the power to recall certain public officers to-day than had the advantages of the direct-primary form of party nominations when Theodore Roosevelt came to Washington. The referendum is only five years behind the primary. Prophecy, with these facts before one, becomes something more than a rash guess.

The democracy has the executive and the legislative branches of the State and Federal governments under its direct control, for in the nomination of a majority of the Members of the House and of the Senate the personification of property is unimportant. By making the party a legalized State institution, by paying for the party primaries with State taxes, by requiring candidates at primaries to file their expense accounts and a list of their contributors, as is done in some States; by limiting the amount to be spent, as is done in certain States; and by guaranteeing a secret vote and a fair count, the State has broken the power of money in politics. Capital is not eliminated from politics, but it is hampered and circumscribed, and is not the dominant force that it was 10 years ago. Then the political machine was financed by capital invested in public-service corporations and was continually trying to avoid the responsibility of its public partnership. Then the political machine quietly sold special privileges to public-service corporations. Now the political machine is in a fair way to be reduced to mere political scrap iron by the rise of the people. To-day in States having the primary under the State control the corporation candidate for any public office is handicapped. The men elected to the United States Senate from States having the northern type of primary generally have been free men, free from machine and corporation taint. Under the primary system any clean, quick-witted man in these States can defeat the corporation senatorial candidate at the primary if the people desire to defeat him. This advantage alone is worth the cost of the primary—something like $100,000 for each State biennially. Moreover, the fact that governors and State officers, legislators and county officers also are free men makes the primary invaluable in terms of money. Taft and Bryan, the two men who have less money behind them than any of their opponents, the two men whom the "interests" did not wish to see nominated, headed the tickets of the two great parties in 1908. And when those United States Senators who win their nominations and elections without the railroad and public-service corporations, and win in the face of the opposition of these organizations of capital, when these Senators begin to name Federal judges, the Supreme Court will begin to reverse itself and the people will capture the lower Federal court—the last citadel of capital. But that is almost an "irridescent dream."

However, just now the people are finding a way around the legislative veto of the State courts. And this they are doing more generally than may be realized by many people. The voters are taking two methods of circumventing the legislative veto of the courts—first, by amending their State constitutions, or making new constitutions, and, second, by direct legislation, or the modification of it known as the initiative and referendum. State courts are elective, and therefore are afraid of majorities. They can not declare constitutional amendments unconstitutional and they handle laws adopted by a direct vote of the people with great care. Hence, the prevalence of the constitutional amendments in American States and the growth of the initiative and referendum from Maine to California. The tendency to amend a State constitution is not a local phenomenon. In 1908 California voted on 18 amendments and Missouri voted on 8. If a State may be said to have a tendency to amend its constitution when it has voted upon one or more amendments at nearly every biennial election for half a dozen years, then the tendency is fairly marked in California, Alabama, Utah, Massachusetts, Oregon, Rhode Island, Texas, Minnesota, New Jersey, Montana, Florida, Maryland, and Mississippi; in New York, where the amendment is a slow and difficult process; in Vermont, where there is agitation for a constitutional convention; in Michigan, where a new constitution has just been adopted; in Illinois; in Maine, where the initiative and referendum has just been instituted by constitutional amendment; and in New Hampshire, Louisiana, Missouri, and Kansas. Where the habit of amending the State constitution becomes settled, as it is in California and Missouri, the habit amounts to a public referendum of many laws, and from the standpoint of direct legislation and government by the majority this habit is praiseworthy. If, however, the guaranty of absolutely unrestricted capital is considered more important than the majority rule, the habit of amending the constitution is dangerous and revolutionary.

The value of the initiative and referendum depends also upon the point from which it is viewed. In certain quarters politics is considered the science of government of the many by the few. Also a government is considered excellent when it protects investment, when it makes the right of contract more important than the welfare of citizens, when it protects vested rights even after they become vested wrongs. In those quarters the initiative and referendum, which is coming into American government as surely as the secret ballot came, will be deemed a dangerous menace to our institutions. Certainly it is a departure from the idea of a government by the few which inspired the fathers of the Federal Constitution when Chief Justice John Marshall gave the Federal judiciary the final veto on all laws passed by State or national legislatures.

And the issue should be met candidly. The friends of the movement for direct legislation should admit frankly that the purpose of their cause is twofold: First, to compel legislatures to act quickly and without evasion; and, second, to circumvent the veto of such courts as are elective, and hence dependent upon popular majorities, and to put whatever righteousness there is in a definitely registered expression of popular will before such courts as are not elective to stay them in their vetoes. For the veto power of the American courts over legislation—under the assumed rights to declare legislation "unconstitutional"—is one of the most ruthless checks upon democracy permitted by any civilized people. European kings and courts do not have such reactionary power; yet in the end it seems to make for righteousness, because under that power in America people have developed a patience and a conscience and a patriotic self-abnegation which fits them to progress in the light of the vision within them. So the initiative and referendum—a most outlandish phrase—which is coming into State governments and city governments all over the country, will be the instrument of a self-restrained people. It will not be the weapon of the mob.

Maine and Missouri have adopted the initiative and referendum as a part of their constitutions. South Dakota, Oregon, Oklahoma, Utah, and Montana have the initiative and referendum as a part of either their fundamental law or upon their statutes. Nevada has the referendum, and is about to vote on the proposition to establish the initiative and referendum. Illinois and Texas have the advisory initiative; in the case of Illinois it is enacted under a law called the public-policy law; and in the case of Texas it is in the primary election law, which forbids party platforms to indorse proposed legislation that is not first voted upon at the primaries and indorsed by the people. Nebraska gives the right of initiative and referendum to her cities. Kansas grants the referendum on all franchises to cities. Arkansas has submitted a constitutional amendment enabling the establishment of the initiative and referendum by statute.

The movement for constitutional State-wide laws providing for the initiative and referendum is now well under way in 30 States of the Union. The movement never has been defeated by the people of a State when it has been presented to them in a simple form for a direct vote. The Legislatures of Wisconsin, of Minnesota, of Iowa, of Oregon, of Mississippi, of South Dakota, of Nebraska, of Delaware, of North Carolina, of California, of Oklahoma, of Washington, of Idaho, of Kansas, of Texas, of Illinois, of North Dakota, of Missouri, of Montana, of Colorado, of New York, of Massachusetts, of Tennessee, of Maine, and of Georgia have granted either the initiative and referendum or one of them to certain cities in these 25 States.

Thus we see that while the secret ballot in the Nation is universal and the primary prevails in two-thirds of the American States the movement for direct legislation has gained foothold in 25 States and is directly before the people, either as a constitutional amendment, a pledge of the dominant party, or as a pledge of the majority of the members elected to the legislature or in the message of the governor in 5 other States, making a total of 30 American Commonwealths wherein there is an aggressive movement toward direct legislation. It is noteworthy that the movement has followed the direct primary movement and has doubled its strength biennially since 1901. And back of the movement for the initiative and referendum and the primary and the secret ballot, waiting silently for its summons to come to the active service of democracy, like Mme. Defarge knitting in the wrongs of the people, stands the recall.

So the appearance of the recall in the cities of a dozen States within a little over a year should make those statesmen nervous who look forward to the time when the country will go back to the good old days. For this tightening grip of the people upon their State governments, as evidenced in some form in every American State, has been an intelligent, gradual, well-directed growth of popular power. Its direction has been wise, for from the beginning to the present there has been no spasm of public indignation followed by reaction. Whose wisdom directed it? No man's name is connected with it. No party nor propaganda has been behind the movement. It operates in Democratic States and in Republican States with equal efficiency. And in no American State has the fight been abandoned, either for the secret ballot, the publicity of party financing, the primary, the initiative and referendum, or the recall, after it has become a serious issue of any group of men of any party. The movement is one of the largest vital things in our politics to-day, but politicians generally—even the best of them—do not seem to understand it. It is as unobtrusive as the wonderful miracle of growth. And in all the heavens, the sea, and the earth this movement has no other prototype except the miracle of growth that we pass by unnoticed every day of our lives. It is growth—spiritual growth in the hearts of the American people. It is a big moral movement in democracy.

For each one of these four reforms—the secret ballot, the publicity of party finance, the direct primary, and direct legislation—requires a broader scope for the individual's concern than he would have under the old order. The man who refuses to sell his vote when bribery is a "conventional crime" is considering some interest other than his own. The man who votes for a direct primary foregoes a place in the aristocracy. The man who demands publicity in campaign finance knows that he is cutting the revenue from under his own party and that there will be less fun in the campaign. The man who urges direct legislation puts a vast power in the hands of his neighbors to control him. Only as men have faith in the force outside themselves that makes for

righteousness will they surrender personal prerogatives to the public good as the people have been surrendering their individual advantage in this democratic movement. The people are controlling themselves. Altruism is gaining strength for some future struggle with the atomic force of egoism in society.

But who has led the people in this journey toward democracy? Who has directed the movement? Who has performed the miracle of democratic growth in the hearts of the people? Here it is—the great surrender which is bringing the great reward—an old equation in the arithmetic of Providence. But who has put the problem and worked it out? No man—no group of men, even—has done it. Yet here it is—no more strange or mysterious than any other miracle of growth about us that our eyes see and our souls ignore.

The good will of the people—the widening faith of men in one another, in the combined wisdom of the numerical majority—indicates the presence of a human trust that only may come to a people with broadening humanity, widening human love for one's fellows. And if God is life, as the prophets say, then love is God, and this growing abnegation of self to democracy is a divinely planted instinct—one with the miracles of life about us. If this is true, if the growth of democracy in this country is as natural as the inexplicable wonders of growth in the woods and fields and cities of men, then democracy may be trusted. For its title is secure, and so we may understand certain signs of the times. For what do we see in this program of American democracy?

It is as old-fashioned as the fog. Indeed, what is the fight of our democracy against unfair competition but the cause against him that "taketh reward against the innocent"? What is the contest of the people against overcapitalization but a struggle with him that "putteth his money out to usury"? What is the campaign of all decent Americans for simple business honesty but scorn for "the reprobate"? What is this broadening intelligence of the Republic, which faced a panic and did not flinch from its conviction of righteousness, but "him that sweareth to his own hurt and changeth not"? The tendency to democracy is a tendency to altruism, and altruism is love of kind, and God is love. The social, political, and economic forces released by steam—democracy and capital—are in the crucible of our national life. They are fusing. But there will be no explosion. For when democracy comes to the problems that have baffled other nations, if democracy holds true to faith, true to its instinct, we may expect democracy to be just.

But those who would use democracy for an end, who would make it serve them by flattering it, by making it mad with power, those who would teach democracy the doctrine of an eye for an eye and a tooth for a tooth, even against those who have oppressed the people, they are democracy's foes, for—

"Except the Lord shall build the house, they labor in vain that build it; except the Lord keep the city, the watchman waketh but in vain."

Again, in this same book, on page 131, Mr. White discusses the modern movements of our social and industrial life and their effect upon the Government. It is a wonderful array of facts and statistics put in attractive form. Chapter VI, pages 131 to 146, inclusive:

THE LEAVEN IN THE NATIONAL LUMP.

Theoretically this Nation lives under a government of laws sustained by a written Constitution. Practically it is a government by public sentiment. This does not mean that it is a government by public clamor. But it does mean that whenever the people have believed in a public policy, whether it was the direct election of the President by the people, or the emancipation of slaves, or the issue of greenbacks, or the acquisition of colonies, or the direct election of United States Senators, and have believed in these things deeply enough to sacrifice their own personal comfort for them—to fight for them in short—the Constitution has never been strong enough to hold them back. The Constitution was meant to suppress clamor, not sentiment; the difference between the two expressions being—broadly—that clamor is the desire to reform some one else, and public sentiment is the desire to reform one's self. Public clamor is essentially selfish—tyrannical. Real public sentiment is essentially unselfish—democratic. For democracy is, at base, altruism expressed in terms of self-government. And so to know what kind of a National Government we really have in America it is as necessary to study our public sentiment as it is to examine our laws and consider our written Constitution.

For while a city or State may exhibit some sporadic legalization of clamor the area of the Nation is too large geographically, mentally, and morally for sheer clamor often to get legal recognition. A democracy must be big. Size is a fundamental part of it; and our very bigness here in America has prevented many vital mistakes. Clamor, from California to Maine and from Florida to Oregon, however loud and terrifying, generally wears itself out before the machinery of law can stamp it and authorize it. So, as a rule, our Federal laws are observed—not because the National Government is so ruthless, but because its laws are just.

And in taking inventory of our national progress during the decade or two past we must consider, along with our new laws, the public sentiment that made them and that sustains them and is demanding the extension of these laws into larger areas; for the sentiment that made the laws is more important than the laws themselves, and the study of the organization and growth of sentiment is an important part of the work of the student of government, for much error prevails about the way this Nation thinks. Commonly newspapers are supposed to be the great factories of sentiment. Gentlemen in the pillory of public sentiment blame their discomfiture upon the newspapers and magazines; and if these gentlemen are in funds at the moment they buy other newspapers and subsidize other magazines, and accomplish nothing. For newspapers and books and magazines do not make sentiment; they merely voice sentiment. Often they make clamor, but public sentiment grows. It is as evanescent as the wind and as resistless as the waves. It may be dammed, but not permanently checked. And in America public sentiment grows after the manner of the genius of the people—by parliamentary organization. Given an idea in common to three Americans, and the best known becomes president, the most effective, secretary, and the richest of the three treasurer. These are faith, hope, and charity.

"To believe your own thought, to believe that what is true for you in your private heart is true for all men—that is genius," says Emerson, and admonishes us, "Speak your latent conviction, and it shall be the universal sense; for the inmost in due time becomes the outmost." So public sentiment grows in America. An idea comes to a man and simultaneously to his brother a thousand miles away, or perhaps in the next block. The idea draws them together. When they meet there is a third and a fourth with them, and they organize. The idea has become a force in the world. It has the seed of events in it. If men are willing to sacrifice their time for it, to give up their comforts for it, to live for it, and, if need be, to die for it, the group that fostered it multiplies by division, in some curious way, into a multitude of groups, all pressing the idea into life. There is the State association, two, three, perhaps four, State associations all advocating the righteousness of the idea. Then comes a call for a national association and the wildfire is out. State associations spring up everywhere. A national bureau is set up promoting the idea, fostering its propaganda, bound to its work in the world, and then follows a national law, and the private organization becomes a public institution.

Ideas in various stages of incubation may be seen all over the country. Where the demand for pure food was 10 years ago the contest against tuberculosis is to-day. And 10 years from now tuberculosis may be as arch an enemy to the laws of the Republic as adulterated food is to-day. And here is another curious thing about the advancement of ideas: Just as the same hundred men or so are the directors of all our big banks, of all our great railroads, and of many of our public-service corporations, directing the centripetal forces of American society, so another group of a hundred men, more or less, is found directing many of the societies, associations, conventions, assemblies, and leagues behind the benevolent movements—the centrifugal forces of American society. It is Morgan, the Gould's, the Harriman interests, Winslow Pierce, Ryan, Stillman, and their associates against Seth Low, William Dudley Foulke, the Pinchot interests, Samuel McCune Lindsay, Jane Addams, Clinton Rogers Woodruff and their associates. They are captains of two opposing groups—capital and democracy—each necessary to the life of the Nation, each performing his organic function in our body politic—the assimilation of the great discovery of steam into our social body.

Thus our history is made by men organized in parliamentary form, bound together by an idea, often opposing a force not always organized, save by the instinct of fear under attack, which makes the community of interest in business and in politics. For instance, one of the most important laws put on our Federal statutes in two decades is the Hepburn railroad law. It prohibits discrimination between individual shippers reasonably well. It is correcting a serious and sinister abuse in our national commerce. The law is fairly well observed. The sentiment of the people is behind it. Here is the leaven that changed the national lump. Before the passage of the Hepburn law there was an organization among American business men known as the Interstate Commerce Convention. It was composed of State and local commercial and trade organizations, boards of trade, fruit growers, lumbermen, and the like, in 34 States; and in addition to these it comprised 35 national associations, like the American Hereford Cattle Breeders, the National Association of Manufacturers, the National Paint, Oil, and Varnish Association, the National Hay Association, and similar organizations that one rarely hears of in the newspapers. This association of associations, called the Interstate Commerce Convention, met from time to time and formulated its demands. In those demands was sacrifice for some associations, abnegation of special privileges by others, selfishness in some quarters, and meanness in others, but, on the whole, what they asked for was fair. They appealed to the Nation. The people were convinced. The newspapers began to voice the sentiment of the people. The President recognized the sentiment and realized its justice. The railroads controlled the machinery of politics. They had hundreds of subsidized newspapers. They hired men to establish bureaus and to write controversial articles and paid editors to print a refutation of the justice of the shippers' demands. Money was spent without stint. Millions might have been used if they had been usable. The Interstate Commerce Convention had raised $22,855.

Gossip said at the time, and the lobbyists for the railroads boasted, that they had two millions. Probably they had no such sum; but they might have had ten. And yet the $22,000 of the shippers was enough. Half as much would have done as well. For money in America does not make sentiment. Printing presses are as useless as cheese presses in making sentiment. Public sentiment comes out of the consciences of the people, and it can not be fed to them in any sort of medicinal form from newspapers, magazines, or books. So the railroads surrendered with all their money. The Hepburn law was enacted. The genius of the people for parliamentary organization, outside of constitutions and law, saved them. They sacrificed something—did these hundreds of thousands of people of the organization—not money, but time, and convenience, and special privileges, passes, inside rates, rebates, concessions, and whatnot of the crumbs of commerce, and by giving to the common good they won for the common good.

Take another instance. The people of this country were eating poisoned food. The president, the secretary, and the treasurer met, discussed the matter, and the Pure Food Association, greatly to be sniffed at by the intrenched forces of culinary poison, began its work. It had no money. It had no newspapers. Newspapers and magazines 10 years ago were taking millions of dollars in advertising from manufacturers of improper foods and drugs. But the pure-food show began to appear in American cities and towns, just as the tuberculosis exhibit is moving over the country to-day. The people learned the truth. The wholesale grocers' associations took up the fight, and in spite of all the money behind the manufacturers of the adulterated and poisonous food, the pure food and drug act passed Congress in June, 1906, and became a law. The sacrifice of hundreds of men and women, who were willing to give their time and their name to the cause of pure food for the masses, was more potent than all the legislative machinery, all the lobby of retailers, all the flood of telegrams from cattle growers, and all the forces of selfishness.

Observe still another illustration of the force of public sentiment in our American life. There is the National Civil Service Reform League. The forces of plunder and graft in the United States hate that league and all its work. The high-caste politicians of the States, of the cities, and of the Nation make this league the particular object of their curses. If organized politics, with all its power and with all its machinery, could stop the spread of the civil service, it would be a dead issue. Yet this little handful of men in the Civil Service League—most of them highly incompetent in the machinations of practical politics—has organized the sentiment of the American people for justice in the public service, and as a result during the last eight years much has been accomplished. In 1901, 1,600 positions in the War Department were restored to the classified service after removal from it in 1899; in 1902, 250 employees of the temporary government in Cuba were added to the classified list, and labor regulations were made for the Washington departments. The next year the shipping commissioners were restored to the classified service and the Philippine teachers added, and in 1904 the classification of the subordinates in the Isthmian Commission began, and the year following the whole labor service was put under control of the Civil Service Commission. Since then the

fourth-class postmasters have been protected, putting presidential postmasters under the merit system; under this rule they are reappointed without reference to congressional indorsement or opposition, if their records are in the first grade of the service. And under the influence of the National Civil Service Commission we are taking the first census ever taken in America not compiled by spoilsmen. The States of Wisconsin, Illinois, New Jersey, Colorado, and Kansas have adopted laws which protect certain employees in certain public institutions from removal for political reasons, and in a measure establishing the merit system. Moreover, San Francisco, Los Angeles, Des Moines, Cedar Rapids, Atlanta, Baltimore, Duluth, St. Louis, Wilmington, N. C., Oklahoma City, Portland, Philadelphia, Scranton, Pittsburg, Norfolk, and all of the 60 cities operating under the commission plan of government have established civil-service rules for one or more of the city departments. All of this leaven of righteousness is worked by public sentiment, and the particular organism that promotes that sentiment is the National Civil Service League, which never spends over $9,000 a year. Money plays a small part in directing the actual current of American public life.

In 1901 and the two years following commercial bodies and labor unions all over the land began petitioning Congress to establish some sort of a bureau of commerce; and in 1903 the Department of Commerce and Labor was established. It marks the greatest advance in our Government's relation to the individual that has been taken for a generation, for the right of the Government to examine the books and accounts of every American business concern and, upon its own judgment of expediency, to withhold or make public the result of its examination, in effect is legalized. The precedence of the common good over the private rights of capital in even private business is established in law. This establishment makes all business public business, so far as its status before the law is concerned. The altruism of democracy has no stronger fortress in America than the law upon which the Department of Commerce and Labor is founded; yet it was founded without excitement, without clamor, because the president, the secretary, and the treasurer of a thousand business organizations—willing to reform themselves, to subject themselves to inspection and regulation—asked for it.

And now we come to the core of the so-called reform movement in America, for it is at bottom a national movement. What we find in ballot laws and democratic tendencies in States, what we find in regulative and restrictive legislation in the various Commonwealths, what we find in reshaping of charters and remaking of municipal governments, are but the local symptoms of our national adolescence. They are growing pains of the new life that is upon us. When President Roosevelt interfered in the anthracite coal strike, early in his administration, he did not create the sentiment which backed him up so loyally in his extraconstitutional act. A score of organizations for a decade had been making sentiment which recognized the common good as paramount to the private right. The right of property as against the right of the people was a shell. It was worm-eaten by public sentiment, and however the coal operators might chatter about their divine rights the real divine right was that of the people to keep warm at a reasonable price. Chief among the organizations propagating the right of the people to industrial peace was and is the National Civic Federation. It is composed largely of rich men who have vision to see that they must surrender to the common good much of their vested rights, and generally these men find joy in it. Among other members of the federation are labor leaders who see that they, too, and their constituents must give in before the common good, and take joy in the giving.

That sentiment is abroad in America; it is the soul of our new-born democracy; so that one who looks at the large national movements of the decade now closing will find that those movements which have become national laws are laws looking to the distribution rather than the accumulation of wealth. Practically all the large national organizations which jam the trains annually going to their conventions are fundamentally altruistic. There are a million Masons in the United States. There are 6,000,000 members of fraternal insurance companies, distributing annually nearly $6,000,000 in sick and death benefits and giving almost as much more in free fraternal service from man to man in time of trouble. For this democratic tendency of our times does not express itself well in dollars and cents, but always it is ready to respond to any call, whether political or social or economic, when the voice is clear and the motive unblurred. When Theodore Roosevelt came to the White House he merely saw the obvious thing, and did it, and became a force for righteousness—the first leader the Nation has developed since Lincoln—because he had a righteous people behind him.

The important measures accomplished by the Roosevelt administration are these: The regulation of corporations, the beginning of the Panama Canal, the enactment of the pure-food law, the reclamation of the deserts by irrigation, the preservation of the forests and water rights, the extension of the civil service, the establishment of peace under the Portsmouth treaty. These may be called the Roosevelt policies; yet they are not his; he merely adopted them. He found in every case a strong parliamentary organization working for these things. Moreover, in every case, these organizations were poor in funds and rich in men and were fighting intrenched interests rich in funds if often poor in men. The struggle of the Interstate Commerce Convention, with its pitiful little $22,000 against the millions of the railroads, has been noted. The same forces that fought the Hepburn law and the establishment of the Department of Commerce and Labor opposed the Panama Canal undertaking—for the canal will play havoc with transcontinental rates—and the packers and poison dealers who opposed the pure food and drug law were beaten by the same little David, in another coat, who slew the railroad Goliath in the first two battles. The irrigation congress had to fight the cattle men and the sheep men who had the ranges and desired to keep them, but the men with vision won, and the fields were cut into "quarters" and "eighties," and the desert blossomed as the rose. In the contest for the preservation of the forests the timber cutters have had nine points of the law—they have had possession—and they have had unlimited funds; and the American Forestry Association, the Appalachian National Forest Association, the International Society of Arboriculture, the Joint Committee on Conservation, and the Society of American Foresters have had less funds than it takes to give a national lumbermen's banquet. Yet the feeble folk built their homes among the rocks of simple justice and are winning, and inevitably must win.

When he established peace at Portsmouth, President Roosevelt was not alone. There was with him the sentiment of a Nation fostered by the American Peace Society, maintaining 18 lecturers in the field, the Association for International Conciliation, the Universal Peace Union, and the Lake Mohonk Peace Conference, not to mention 32,000,000 of church communicants in the Nation. The history of the Roosevelt administration, with its wonderful advance in our national institutions, has been the history of the expression of the people rather than the growth of the people. Like Homer, when he "smote his bloomin' lyre," Theodore Roosevelt found the people bursting with pent-up righteousness, "and what he thought he might require, he went and took." And yet without the leadership of Theodore Roosevelt, without his personality to dramatize the growing righteousness of the people, it is not difficult to imagine what calamity of misdirected radicalism might have been visited upon the Nation. If that righteous wrath of the people at the selfish forces of society had not found expression through President Roosevelt, it would have been voiced through demagogues at an awful cost to the Nation. His genius lies not in making sentiment, but in directing it into sane, conservative, workable laws.

In the light of these things constituting as they do the greatest things accomplished in our time—the real evolution of our Government and civilization—can there be any doubt about the wisdom of giving the people the right to organize and to advance legislation demanded by the conditions of the times? The initiative furnishes them the legal and orderly way to do this. They will use it as they are now using it in the States where it has been ordained. Certainly it furnishes no excuse for the condemnation of these Territories which seek to come into the Union with constitutions giving their people this power.

And now, a word as to the recall of public officers. The power of the electorate to control its officers is so closely connected with the power to legislate that in principle there can be but little difference. All history furnishes us no instances where either has been used by the mob or the rabble; but history is replete with instances where the refusal of governments to provide orderly means for the redress of public wrongs has resulted in riot, anarchy, and the terrors of armed rebellion. The laws of Mexico furnished no method by which Diaz could be recalled, so he was recalled by the sword. So it has ever been in history. It was Benjamin Harrison who said:

> The man whose protection from wrong rests wholly upon the benevolence of another man or of a Congress is a slave, a man without rights.

A free people will redress their wrongs peaceably by orderly methods provided by laws, or they will redress them by force. The freest and most orderly government is one which furnishes ample means for the expression of the popular will.

If judges must indulge in judicial legislation to make the laws meet the needs of the time, then the people should be heard as to who shall constitute their interpreters of the law.

The removal of officers by trial of impeachment is adequate as a punishment for the officer who has failed to do his duty, but as an immediate remedy for public wrongs it is limping and halt. No judgment can be obtained usually in the case of local officers until after the expiration of the term for which the offending officers were elected.

As to the judiciary, I have failed to hear any good reason urged against the recall of judges that does not apply equally to the recall of other officers. I have heard none which does not apply equally to the recall and the election of judges. I am perfectly willing to let the merits of the two systems stand on the records of the judges now serving in the country who have been elected, compared with those, now serving, who hold their positions by appointment. The argument that the recall would be resorted to by disappointed litigants and others to embarrass the court is ridiculous. In the first place, the disappointed litigant would gain nothing by the recall of the judge who had decided against him, as the judge's recall would not revoke his former judgment, and none of these elements of dissatisfaction would be more effective in the recall than they are against elective judges. The recall of judges could only be used to check judicial legislation or the conduct of courts in construing laws of great public interest, which amounted to the same thing. While all admit instances of judicial legislation are far too frequent to be tolerated, it must also be admitted that under our constitutional form of government it is the duty of the judges to construe the laws to suit present needs and the conditions of society and the people.

If "applied" or interpreted law is expected to meet the demands of the time, what harm or injustice can there be in submitting some authority to arbitrate these questions of public policy of the people, even by so indirect a method as the right to change the interpreters of the laws? If the false interpreter of laws can not be removed, the Constitution itself will, in his hands, become an instrument of oppression and a charter of special privileges and eventually a reproach to the Nation.

The recall of judges who willfully pervert its solemn mandates is the only sane remedy ever proposed for the prevention of judicial legislation.

The CHAIRMAN. The gentleman from Kansas asks leave to extend his remarks in the RECORD. If there be no objection, it will be so ordered.

[Mr. SAUNDERS addressed the committee. See Appendix.]

MESSAGE FROM THE SENATE.

The committee informally rose; and the Speaker having resumed the chair, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed joint resolution and bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. J. Res. 18. Joint resolution authorizing free or reduced transportation to members of the Grand Army of the Republic and others whenever attending regular annual encampments, reunions, or conventions, and for other purposes;

S. 1095. An act to authorize the surveyor of the District of Columbia to adopt the system of designating land in the District of Columbia in force in the office of the assessor of said District;

S. 1082. An act to receive arrearages of taxes due to the District of Columbia to July 1, 1908, at 6 per cent interest per annum, in lieu of penalties and costs;

S. 19. An act authorizing the Secretary of War to convey the outstanding title of the United States to lots 3 and 4, square 103, in the city of Washington, D. C.;

S. 29. An act to amend paragraph 43 of an act entitled "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1903, and for other purposes," approved July 1, 1902;

S. 1087. An act to amend an act entitled "An act to provide for the better registration of births in the District of Columbia, and for other purposes," approved March 1, 1907;

S. 30. An act to provide for the extension of Kenyon Street from Seventeenth Street to Mount Pleasant Street and for the extension of Seventeenth Street from Kenyon Street to Irving Street, in the District of Columbia, and for other purposes;

S. 1094. An act for the widening of Sixteenth Street NW. at Piney Branch, and for other purposes;

S. 306. An act to confirm the name of Commodore Barney Circle for the circle located at the eastern end of Pennsylvania Avenue SE., in the District of Columbia;

S. 21. An act for the relief of Ida A. Chew, owner of lot 112, square 721, Washington, D. C., with regard to assessment and payment of damages on account of changes of grade due to construction of the Union Station, District of Columbia;

S. 32. An act to amend an act entitled "An act to provide for the extension of Newton Place NW. from New Hampshire Avenue to Georgia Avenue, and to connect Newton Place in Gass's subdivision with Newton Place in Whitney Close subdivision," approved February 21, 1910;

S. 1090. An act providing for guides in the District of Columbia and defining their duties;

S. 267. An act providing for assisting indigent persons, other than natives, in the District of Alaska;

S. 12. An act to give effect to the provisions of a treaty between the United States and Great Britain concerning the fisheries in waters contiguous to the United States and the Dominion of Canada, signed at Washington on April 1, 1908, and ratified by the United States Senate April 13, 1908;

S. 1627. An act to authorize the construction, maintenance, and operation of a bridge across and over the Arkansas River, and for other purposes;

S. 2003. An act authorizing the Secretary of the Navy to make partial payments for work already done under public contracts;

S. 940. An act granting to the city of Los Angeles certain rights of way in, over, and through certain lands and national forests in the State of California; and

S. 2434. An act providing for an increase of salary of the United States marshal for the district of Connecticut.

NEW MEXICO AND ARIZONA.

The committee resumed its session.

Mr. LANGHAM. Mr. Chairman, I yield 25 minutes to the gentleman from Massachusetts [Mr. MCCALL].

Mr. MCCALL. Mr. Chairman, the last Congress passed an enabling act under which the two Territories have taken certain action. The Territory of New Mexico has conformed to the requirements of the act, and unless there is some further legislation by Congress it will be admitted as a State in the Union. It does not appear that the Territory of Arizona has complied with the requirements of the act, because its constitution has not yet been approved in the way set out, and unless it shall be approved by the President or unless there shall be further action by Congress it will not be admitted as a State. I am willing to stand by the enabling act, but I am not disposed to stretch the principles of correct government any further in the direction of the admission of the Territory of Arizona.

At the special election held to pass upon the constitution which involved the admission of that Territory there were only 16,000 votes cast. I hesitate to increase the inequality which now exists in our Government and to confer upon another State, with a very small population, which has only cast 16,000 votes upon the important question of its admission into the Union, an equal power in the Senate with that exercised by the great State of New York, which casts 1,600,000 votes at an election.

It is attempted to balance here—and it seems to be for the purpose to give this bill a judicial pose—an imagined fault in the constitution of New Mexico, in order to offset a very grave and vital defect in the constitution of Arizona. It is said that the constitution of New Mexico is not sufficiently flexible and that the people should pass again upon the question of the manner in which they shall amend it, but it was conclusively shown here in debate by the gentleman from Ohio [Mr. WILLIS] that the constitution of New Mexico could be more easily amended than the constitutions of a majority of the States in the Union. Now, what is that used to offset? Arizona provides in its constitution for a recall of the judges, something that I believe would not merely in the long run result in the destruction of a republican form of government, but which I believe would be entirely subversive of civil government. I do not care to vote to admit that Territory, simply saying that she shall pass upon the question whether she will have this obnoxious provision in her constitution or not. I do not propose to agree that Congress shall put itself in a position of indifference or in a doubtful or equivocal attitude and pass a solemn law, saying that the people of Arizona should pass upon the proposition whether they will have the recall of judges in their constitution or not, and that whichever way they decide the State shall come into the Union.

I am not in favor of the general principle of recall of even political officers. I believe that we consult the omens altogether too much; that the tendency of our statesmen is to go out and see which way the wind is blowing rather than, during the time in which the people have intrusted power to them, conscientiously performing the business that comes before them in the light of the great and true principles of government. [Applause.]

In a speech which I made some two weeks ago I pointed out some of the possible consequences of a recall of political officers. I then said that if the recall had been operative in the United States in 1862 I believed that Abraham Lincoln would have been recalled. You will remember that there had then been a long series of unsuccessful battles. The great organs of newspaper opinion in the country were ranged against him, and even the abolitionists were opposed to him. He had been elected to office by a minority of the people of the country, and there is a probability that even a greater majority than that cast for other candidates would have voted in favor of recalling him if the question had been put at that hour of his unpopularity; and, if I am correct, we should have seen some of the most glorious history that has ever been recorded spoiled in the making. We should probably have seen our Union dismembered and obloquy take the place of as great and pure a fame as can be found among the children of men. [Applause on the Republican side.]

Mr. BUCHANAN. Will the gentleman yield for a question?

Mr. MCCALL. I have only 25 minutes.

Mr. BUCHANAN. Will he yield just for a question?

Is it not a fact that all of those forces that the gentleman thinks would have caused the recall of President Lincoln operated against him during the campaign in which he was reelected?

Mr. MCCALL. Well, not to discuss that further, everybody who is familiar with the history of the country knows that there was a great change in conditions and of sentiment between the summer of 1862 and November, 1864. I can not take the time to show the differences that had occurred.

Now, one would think, from the air of wisdom and of invention with which the recall and the referendum and the initiative have been presented on this floor, that they were modern discoveries. Why, it is the old question of direct against representative government which has been on trial from the earliest historical times. The framers of the Constitution were entirely familiar with it. The system of direct government had been in force among the most intelligent people of the world. We are apt to think that because we have made great inventions and discoveries, therefore we have immunity to violate sound political principles. Advancement is of two kinds—the physical advancement, such as we have had, such as has been so rapid and revolutionary in this country in the last century, and moral advancement, an advancement which would affect

the operations of the human mind. The first kind, as I have said, has been great and rapid in the last century. But in order to see the second kind one must look at periods of time remote from each other. It is almost imperceptible, because the same impulses and the same motives animate mankind to-day as animated them in the time of the ancient Greek.

Take the ancient democracies. The Greeks were more civilized than we are. Take those consummate flowers of civilization, art and literature, and as to them they were ahead of us. As you go through one of the art galleries of the Old World, looking at the masterpieces, and see in the distance some remnant of the work of even an unknown Greek sculptor, you are held enchained in wonder, and what must the work of Phidias and Praxiteles have been? And it is the same way with letters. We have produced nothing that can compare in finish and perfection with the works of Æschylus and Sophocles and Plato.

How did this system of government work among the Greeks? They did not have these baffling questions that we have had thrust upon us in our complicated material civilization, and yet no man could be long prominent in public life before he would encounter antagonism, and unless he bowed to it he would be stricken down. As great an orator and as pure a patriot as ever lived, Demosthenes, was put to death because in spite of the clamor of his countrymen he had insisted on regarding the real interests of his country.

I say we do not want even a political recall. But I am talking too much about the political recall, because I wish to speak especially upon the recall of judges. Our system of government permits political liberty, and at the same time it has another great object. It aims to safeguard individual rights and individual freedom. There is a distinction between the agencies of our Government which deal with the political expressions of our people and those agencies which administer justice between man and man. It is the very essence of democracy that any man, however humble and lowly and poor he may be, may have his rights under the Constitution and the laws as against the most powerful in the land; and so we attempted to set our judges aside and to free them from the influence of popular passion, so that they might exactly and equally enforce the law. But we must make them of human clay. We can not have archangels for our judges, but we attempt to make them as independent and impartial as the lot of humanity will permit.

Now, suppose you make them dependent for every decision which they may make upon the will of the people and liable to be called upon to argue any of their legal decisions upon appeal before a popular tribunal.

Why, a man may no sooner be upon the bench in Arizona—I believe he may be there six months—when one-fourth of the voters may petition for his recall, and then he is given the inestimable privilege of choosing between two alternatives—either to resign in five days or to make his defense in 200 words and have the people pass upon his record. What sort of a judge would you have under that system—a judge who would feel that after any decision, if he might offend powerful interests, if he might offend some great politician, if he might offend some great corporation employing thousands of men, or some great labor union which might hold the balance of power, he would be subject to recall? What sort of justice would you have under such a system? Why, your judge, instead of going to the sources of the law and to the fountains of jurisprudence before deciding a case, would go out and look at the weather vane. He might be put on trial before the very mob from whose lawless vengeance he had just rescued a prisoner.

But you say these things can not affect a judge. Why, there is nothing in the character of the office, if you make the man's tenancy of it dependent upon the popular favor of the moment, that would change the nature of the man.

Before the Revolution of 1688 in England the judges held their office at the pleasure of the Crown, and under the last of the Stuart kings we had an era of the grossest judicial crimes, we had an era of the blackest judicial murders which history records. The will of the sovereign was subserved by the judges; and the great result of that portentious revolution was to take away from the King the power over the tenure of judges and establish their independence. Ever since that time the administration of justice in England has been surpassed nowhere upon the face of the globe.

Adopt this system and you will have your judges respond in the same way as they responded when the King was their master. You will have them inevitably respond to the political boss, or to the man who controls the political party, or to popular clamor, precisely as Representatives are too often apt to respond to them.

We have had in Massachusetts ever since our constitution was adopted a judicial tenure during good behavior, commonly known as the life tenure, and I do not believe that any judicial system in the world has been administered with a greater regard for the interests of the people, or has better served the ends of justice, than has ours in Massachusetts.

In 1853, when there was a wave going over the country for the election of judges, an attempt was made to change our constitution. Of course, our judges could not make uniformly popular decisions. There were decisions under the fugitive-slave acts, where the supreme court of Massachusetts and the circuit court of the United States in Massachusetts had ordered the return of black men to bondage under the clause of the Federal Constitution which gave the master the right to reclaim his slave. Those decisions were disliked by a great many people, and the judges were criticized on account of them. Richard H. Dana, who was one of our greatest lawyers, and who was a most eloquent advocate of the rights of these black men, having defended some of them, said upon that point that he was deeply grieved at these decisions; but he declared that in his greatest distress there was one drop of comfort left him:

I knew that these decisions came from men who were not making them for their judicial lives. I knew that they came from men who were not making them because their offices or their salaries were dependent upon them.

[Applause.]

At the time of that convention to amend the constitution a speech was made which probably was more responsible than anything else for the fact that the constitution of Massachusetts was not amended.

That speech was made by Rufus Choate, as brilliant an advocate as ever spoke the English tongue. Far better than any words of mine what he said at that time will illumine this debate, and I will read some extracts from that speech which I think are very pertinent to this discussion. Speaking of the character of the office of a judge, he says:

Dismissing for a moment all theories about the mode of appointing him or the time for which he shall hold office, sure I am we all demand that as far as human virtue, assisted by the best contrivances of human wisdom, can attain to it he shall not respect persons in judgment. He shall know nothing about the parties; everything about the case. He shall do everything for justice; nothing for himself; nothing for his friend; nothing for his patron; nothing for his sovereign. If on one side is the executive power and the legislature and the people—the sources of his honors, the givers of his daily bread—and on the other an individual nameless and odious, his eye is to see neither, great nor small, attending only to the "trepidations of the balance." If a law is passed by a unanimous legislature, clamored for by the general voice of the public, and a cause is before him on it, in which the whole community is on one side and an individual nameless or odious on the other, and he believes it to be against the Constitution, he must so declare it, or there is no judge.

I would have him one who might look back from the venerable last years of Mansfield or Marshall and recall such testimonies as these to the great and good judge:

"The young men saw me, and hid themselves; and the aged arose and stood up.

"The princes refrained talking, and laid their hand upon their mouth.

"When the ear heard me, then it blessed me, and when the eye saw me, it gave witness to me.

"Because I delivered the poor that cried, and the fatherless, and him that had none to help him.

"The blessing of him that was ready to perish came upon me, and I caused the widow's heart to sing for joy.

"I put on righteousness and it clothed me. My judgment was as a robe and a diadem. I was eyes to the blind, and feet was I to the lame.

"I was a father to the poor, and the cause which I knew not, I searched out.

"And I brake the jaws of the wicked, and plucked the spoil out of his teeth."

Give to the community such a judge, and I care little who makes the rest of the Constitution, or what party administers it. It will be a free government, I know.

He speaks thus of the qualities of a judge:

In the first place, the qualities which fit him for the office are quite peculiar; less palpable, less salient, so to speak, less easily and accurately appreciated by cursory and general notice. They are an uncommon, recondite, and difficult learning, and they are a certain power and turn of mind and cast of character which, until they come actually and for a considerable length of time and in many varieties of circumstances, to be displayed upon the bench itself, may be almost unremarked but by near and professional observers.

The candidate is made the nominee of a party boss—

And so nominated, the candidate is put through a violent election, abused by the press; abused on the stump, charged 10,000 times over with being very little of a lawyer and a good deal of a knave or boor; and after being tossed on this kind of a blanket for some uneasy months is chosen by a majority of 10 votes out of 100,000, and comes into court breathless, terrified, with perspiration in drops on his brow, wondering how he ever got there, to take his seat on the bench. And in the very first cause he tries he sees on one side the counsel who procured his nomination in caucus and has defended him by pen and tongue before the people, and on the other the most prominent of his assailants, one who has been denying his talents, denying his learning, denying his integrity, denying him every judicial quality and every quality that may define a good man before half the counties in the State. Is not this about as infallible a recipe as you could wish to make a judge a respecter of persons? Will it not inevitably load him with the suspicion of partiality, whether he deserves it or not?

The argument was urged that a judge should be elected as well as a governor or members of the legislature, and to this Mr. Choate replied as follows:

It seems to me that such an argument forgets that our political system, while it is purely and intensely republican, within all theories, aims to accomplish a twofold object, to wit, liberty and security. To accomplish this twofold object we have established a twofold set of institutions and instrumentalities—some of them designed to develop and give utterance to one; some of them designed to provide permanently and constantly for the other; some of them designed to bring out the popular will in its utmost intensity of utterance; some of them designed to secure life, and liberty, and character, and happiness, and property, and equal and exact justice against all will and against all power. These institutions and instrumentalities in their immediate mechanism and workings are as distinct and diverse, one from the other, as they are in their offices and in their ends. But each one is the more perfect for the separation, and the aggregate result is our own Massachusetts.

Thus, in the law-making department, and in the whole department of elections to office of those who make and those who execute the law, you give the utmost assistance to the expression of liberty. You give the choice to the people. You make it an annual choice; you give it to the majority; you make, moreover, a free press; you privilege debate; you give freedom to worship God according only to the dictates of the individual conscience.

* * * * * * *

But to the end that one man, that the majority, may not deprive any of life, liberty, property, the opportunity of seeking happiness, there are institutions of security. There is a Constitution to control the Government; there is a separation of departments of Government; there is a judiciary to interpret and administer the laws, "that every man may find his security therein." And in constituting these provisions for security you may have regard mainly to the specific and separate objects which they have in view.

* * * * * * *

Your security is greater; your liberty is not less. You assign to liberty her place, her stage, her emotions, her ceremonies; you assign to law and justice theirs. The stage, the emotions, the visible presence of liberty are in the mass meeting; the procession by torchlight; at the polls; in the halls of legislation; in the voices of the press; in the freedom of political speech; in the energy, intelligence, and hope which pervade the mass; in the silent unreturning tide of progression. But there is another apartment, smaller, humbler, more quiet, down in the basement story of our Capitol—appropriated to justice, to security, to reason, to restraint; where there is no respect of persons; where there is no high nor low, nor strong nor weak; where will is nothing, and power is nothing, and numbers are nothing—and all are equal and all secure before the law. Is it a sound objection to your system that in that apartment you do not find the symbols, the cap, the flag of freedom? Is it any objection to a courtroom that you can not hold a mass meeting in it while a trial is proceeding? Is liberty abridged because the procession returning by torchlight from celebrating anticipated or actual party victory can not pull down a half dozen houses of the opposition with impunity, and because its leaders awake from intoxications of her Saturnalia to find themselves in jail for a riot? Is it any objection that every object of the political system is not equally provided for in every part of it? No, sir. "Everything in its place, and a place for everything." If the result is an aggregate of social and political perfection, absolute security combined with as much liberty as you can live in, that is the state for you. Thank God for that; let the flag wave over it; die for it.

Then he concluded by this reference to the people of Massachusetts, which will apply in effect to the people of the whole country:

Sir, that people have two traits of character, just as our political system in which that character is shown forth has two great ends. They love liberty; that is one trait. They love it and they possess it to their heart's content. Free as storms to-day do they not know it and feel it—every one of them, from the sea to the Green Mountains. But there is another side of their character, and that is the old Anglo-Saxon instinct of property—the rational and the creditable desire to be secure in life, in reputation, in the earnings of daily labor, in the little all which makes up the treasures and the dear charities of the humblest home; the desire to feel certain when they come to die that the last will shall be kept, the smallest legacy of affection shall reach its object, although the giver is in his grave; this desire and the sound sense to know that a learned, impartial, and honored judiciary is the only means of having it indulged. They have nothing timorous in them as touching the largest liberty. They rather like the exhilaration of crowding sail on the noble old ship and giving her to scud away before a 14-knot breeze; but they know, too, that if the storm comes on to blow, and the masts go overboard, and the gun deck is rolled under water, *and the lee* shore, edged with foam, thunders under her stern, that the sheet anchor and best bower then are everything! Give them good ground tackle and they will carry her round the world and back again till there shall be no more sea.

[Applause.]

During the foregoing remarks the time of the gentleman expired and the gentleman from Virginia [Mr. FLOOD] yielded him one minute additional time.

Mr. FLOOD of Virginia. Mr. Chairman, this debate has taken such a wide range that I wish, in the short time that I am to occupy the floor, to discuss the various propositions that will come before the committee, to be voted on at 3 o'clock, namely, the resolution submitted by the Committee on the Territories admitting as States the Territories of Arizona and New Mexico and the substitutes offered by the two wings of the minority of that committee.

Mr. DICKINSON. Mr. Chairman, before the gentleman begins his speech I desire to ask him a question.

The CHAIRMAN. Will the gentleman yield?

Mr. FLOOD of Virginia. Certainly.

Mr. DICKINSON. I notice that in the amendment providing for New Mexico there is a different provision regarding the ballot from the provision in regard to the amendment to the Arizona constitution.

Mr. FLOOD of Virginia. Yes; I understand.

Mr. DICKINSON. I have in my hand a newspaper clipping sent me by a member of the constitutional convention of New Mexico complaining of the difference. Will the gentleman please state to the committee why this difference and which amendment follows the law of either State, if there is any difference, and if the New Mexico amendment does not follow the ballot law of New Mexico, then why?

Mr. FLOOD of Virginia. Mr. Chairman, the difference was made in the resolution because the Arizona election laws are of the most modern character; the secret ballot and all the Australian ballot provisions are embraced in it. In New Mexico such is not the case, and we desire to give the people of New Mexico who vote on this amendment an opportunity to have an election under such restrictions, so that it may be absolutely fair and honest. [Applause.]

Mr. Chairman, the Committee on the Territories have had but one desire in the work they have done in this matter and the resolution they have reported, and that is to bring about the admission of New Mexico and Arizona as States of this Union with as little delay as possible. [Applause.] I believe that the committee has adopted a course that will bring those two States into this Union, and the only course that will bring them in without serious delay. To fully understand the situation it is necessary for us to consider for a few moments the immediate history connected with the effort to get these two Territories in as States. On June 20, 1910, the President approved the enabling act to permit the people of New Mexico and Arizona to adopt constitutions and become States. By the terms of the enabling act we provided for the election of delegates to constitutional conventions and empowered them to frame constitutions for their respective proposed States. We provided also for the ratification or rejection of these constitutions.

On the 21st day of January of this year a vote was taken upon the constitution of New Mexico, as framed by the constitutional convention provided for in the enabling act, and this constitution was ratified by a large majority of the votes cast upon it.

On the 9th day of February of this year a vote was taken upon the constitution framed by the constitutional convention of Arizona, as provided for in the enabling act, and that constitution was ratified by a vote of about 80 per cent of the vote cast.

No other question was voted on, nor was any other election held but a vote upon the ratification or rejection of these constitutions. This was as the enabling act provided.

The enabling act further provided that if the constitutions so framed should be republican in form, not in conflict with the Declaration of Independence, and should conform to the terms of the enabling act, that they should be submitted to Congress and the President; and if Congress and the President both approved the constitutions, then, upon notice by the President to the governors of the Territories, elections should soon thereafter be held for State and county officers, members of the legislatures, and representatives in Congress. If, however, the President approved these constitutions and Congress did not approve them, then the final steps for the admission of these States were not to be taken until after the adjournment of the next regular session of Congress. Of course, if Congress disapproved the constitutions the Territories would not be admitted as States.

On the 24th day of last February the President transmitted a message to Congress approving the constitution of New Mexico. He has not up to this time taken any action in reference to the constitution of Arizona. Upon the receipt of the message of the President approving the constitution of New Mexico it was referred to the Committee on the Territories.

On the 28th day of February the committee reported and there was passed by this House a resolution approving the constitution of that proposed State. The committee had hearings, Mr. Chairman, but I do not believe if that committee had heard the arguments and evidence that the committee of this Congress heard upon this question that that report would have been anything like unanimous. I doubt if they could have gotten a majority of that committee to approve the constitution of New Mexico at all. The first day of this session of Congress I introduced a resolution to approve both the constitution of New Mexico and Arizona. I did that with the information I then had. If I had had the information at that time that I now possess, I should have introduced just such a resolution as the Committee on the Territories has reported here for the consideration of the Committee of the Whole. [Applause.] We have

made changes, or suggested them; we have proposed changes in both of these constitutions, and so have the minority of this committee proposed changes in the Arizona constitution.

We proposed in the case of New Mexico that there should be submitted to the people of that proposed State an article on amendments as a substitute for the article on amendments which their constitutional convention put in that constitution, and the minority of the committee objects to that. We proposed, Mr. Chairman, an amendment which provides that a majority of both houses of the legislature may submit amendments, that the number of amendments to be submitted shall be in the discretion of the legislature, and that a majority of the people voting upon the amendments can adopt them. The minority opposes that proposition and says that New Mexico ought to come in with no suggestion made as to the change of its constitution, and they give two reasons for their position. The first is that by proposing this change we will delay the admission of New Mexico as a State, and the second is that the constitution of New Mexico as adopted is already easy of amendment.

Mr. Chairman, there is absolutely no foundation in fact for either position taken by the minority of the Committee on Territories and the gentlemen who have supported that minority here. [Applause.] The enabling act provides that when the final steps looking to the admission of this Territory are taken, when this resolution passes, or the original resolution, as I introduced it, or any other resolution of admission passes, the President shall notify the governor of New Mexico, who shall order an election, and when that election has taken place the fact is certified to the President, then the President issues his proclamation which makes New Mexico a State. Now, we have proposed——

Mr. FERRIS. Would it disturb the gentleman to ask him a question?

Mr. FLOOD of Virginia. Just a question would not.

Mr. FERRIS. I am very much interested in the gentleman's remarks, and I think the committee has advocated the only avenue for good statehood for Arizona. I want to ask the gentleman if it is not his opinion that the two minority reports—following either one—will eventually deny Arizona any kind of statehood at all, with the views of the President as they are?

Mr. FLOOD of Virginia. I think the gentleman is right about that.

Mr. FERRIS. One question further. I notice the Delegate from Arizona has signed one of the minority reports.

Mr. FLOOD of Virginia. I notice that, too. I was astonished at it. I can not see how a man who is here representing the Territory of Arizona, whose people are anxious for statehood, could sign a report and advocate a resolution the purpose of which is to deny to those people statehood. [Applause.]

Mr. CAMERON. Mr. Chairman——

The CHAIRMAN. Will the gentleman from Virginia yield to the gentleman from Arizona?

Mr. FLOOD of Virginia. I will.

Mr. CAMERON. I think I fully set forth, Mr. Chairman, my position in my remarks to this House, and I am willing to stand by what I said on the floor of this House. My explanation will be in print to-morrow and you can all read it. [Applause.]

Mr. FLOOD of Virginia. Oh, Mr. Chairman, the gentleman will not be able to protect himself from the wrath of the people of Arizona by the excuse he gave here Saturday, because he admitted he knew nothing of what the position of the President of the United States was, and therefore the people of Arizona will not be fooled by his statement that he signed the report to please the President. With this admission went the only defense he had for his position. [Applause.]

Now, we propose that the amendment we are going to submit shall be voted on at the election at which these officers are to be elected, which election must take place under the enabling act before the President can declare New Mexico a State. So there can not be an hour's or a minute's delay on account of this proposition. Therefore the statement made by the minority of this committee that it would cause delay in the admission of New Mexico is absolutely without foundation. [Applause on the Democratic side.]

The other objection urged by the minority of the committee to this resolution is that it is not necessary, because the constitution of New Mexico already provides an easy method of amendment. So carried away are these gentlemen by their zeal to serve their partisan friends in that Territory that they have actually made that statement in the report filed in the House.

The distinguished gentleman from Massachusetts [Mr. McCALL] made the same statement this morning. He made it upon the authority of my colleague upon the committee, Mr. WILLIS, of Ohio. I assert, Mr. Chairman, that it is a more difficult constitution to amend than any constitution that exists in the United States to-day. There is no State now in the Union that has a constitution anything like as hard to amend as the one proposed for the new State of New Mexico. [Applause on the Democratic side.]

Mr. Chairman, the distinguished gentleman from Ohio [Mr. WILLIS], when he discussed this question, asserted with great positiveness that there were only two States in the Union in which a majority of the legislatures could submit amendments and a majority of the people at the polls could ratify those amendments. I told him I knew he was mistaken.

The gentleman had his books and I did not have mine, and could not, therefore, prove my statement at the time. But even his books did not bear him out. I find that the books he had show that the Oregon constitution provides that a majority of both houses of the legislature can submit amendments and a majority of the people at the polls can adopt those amendments, and that is one of the States that the gentleman did not include in the two he named. I found that in the State of Michigan—and I called his especial attention to Michigan—they have a provision much easier even in the submission of amendments than by a majority of the legislature. Twenty-five per cent of the qualified voters can submit amendments, and the majority of the people voting on the amendments can ratify them; and when these amendments are considered by the legislature a majority of both houses of the legislature can submit a substitute amendment for the one proposed by the people, and a majority of the people at the polls, voting on those amendments, can adopt them. I simply mention these two States to show that my distinguished friend was wrong in his statement of facts. And I want to say, Mr. Chairman, that he is as wrong in his statement of every other fact connected with the statehood matter as he is in connection with this fact. My friend is eloquent and entertaining, but he does not recognize a fact.

Mr. WILLIS rose.

The CHAIRMAN. Does the gentleman from Virginia yield to the gentleman from Ohio?

Mr. FLOOD of Virginia. Certainly.

Mr. WILLIS. I simply wanted to inquire what the gentleman said about the constitution of Oregon. I did not catch quite all of his statement.

Mr. FLOOD of Virginia. The constitution of Oregon—not the antiquated one, probably, that the gentleman has, but the one that is now in force—provides that:

> Amendment or amendments may be proposed in either branch of the legislative assembly, and if the same shall be agreed to by a majority of all the members elected to each of the two houses such proposed amendment or amendments shall, with the yeas and nays thereon, be entered in their journals and referred by the secretary of state to the people for their approval or rejection at the next general election, except when the legislative assembly shall order a special election for that purpose. If a majority of the electors voting on any such amendment shall vote in favor thereof, it shall thereby become a part of this constitution.

Mr. WILLIS. I want to be perfectly frank and fair with my friend, and I will say to him that in volume 5 of the book to which I referred—"Charters and Constitutions," printed at the Government Printing Office in 1909—there is the distinct statement that the amendment has to be referred to a second session of the legislature.

Mr. FLOOD of Virginia. That is the old constitution. The gentleman is like all Republicans; he can not keep up with the march of the times and the march of progress, and even the adoption of progressive constitutions. [Applause on the Democratic side.]

The New Mexico constitution is a most difficult one to amend. It requires two-thirds of each house of the legislature to submit an amendment, except at intervals of eight years, and amendments can only be submitted at general elections. Any amendment submitted must be ratified by a majority of the votes cast on the amendment, and in addition to this by 40 per cent of the votes cast at the election and in at least 50 per cent of the counties.

To require two-thirds of each house of the legislature to submit an amendment on its face does not seem to be a very rigid restriction on the power of amendment; but we find that there are 26 counties in New Mexico and that these 26 counties have 24 senators. To submit an amendment it will take the vote of 16 senators. By reference to the apportionment for senators it will be seen that 4 of these 26 counties control the election of more than enough senators, if they are opposed to the submission of an amendment, to prevent one being submitted to the people. The county of Socorro, with a population of 14,760—about 1,200 more population than would entitle it to one senator—not only is given a senator, but is made a

part of two other senatorial districts, and if the vote of Socorro is properly organized it could control three votes in the senate against the submission of an amendment. Bernalillo County has its own senator and is projected into another senatorial district, so it can be made to control two senators. San Miguel County is so apportioned that it may control three senators, and Colfax County, a mining county, where the voters are notoriously under the control of the mine owners, with a population of a few thousand more than is necessary to entitle it to a senator, is made to constitute not only one senatorial district, but a part of a second. It will be seen, therefore, that these four counties, with an aggregate population of 77,000, or about 23 per cent of the population of the State, can control 10 of the senators out of 24, or more than 40 per cent of the senate. Or, to substitute Rio Arriba for Bernalillo—and Rio Arriba controls two senators—there would be a population of about 70,000, or a little more than 21 per cent of the entire population of the State, controlling 10 senators, and would be able to prevent the submission of an amendment.

This demonstrates the difficulty which will confront the people of New Mexico in taking the first step toward securing an amendment to their constitution. The constitution provides that this apportionment shall not be changed by the legislature until after the publication of the census of 1920, and then does not require that an apportionment be made, but merely permits the legislature to make one. This also demonstrates the inequality in the representation in the State senate and, to a certain extent, the same inequality exists in the apportionment for the House. The evidence before the committee was to the effect that certain counties in New Mexico, none of which are in the list of these five, are rapidly increasing in population and are filling up with American citizens from Texas, Oklahoma, and other States, which will each year make the inequality of this apportionment greater.

Taking this apportionment in connection with the two-thirds of each house required to submit amendments to the people, it is too rigid a restriction on the power of amendment. I have heard a good deal said about this apportionment being gotten up in the interest of the Republican Party. I was not so impressed with that fact as I was with the fact that it was gotten up in the interests of the corporations of New Mexico. [Applause on the Democratic side.] The Republicans were, of course, incidentally helped. [Applause.] The strongest proponents of this constitution who appeared before our committee admitted that this was a corporation-ridden Territory and that its constitutional convention was controlled by corporate interests. At least there was no denial of that fact. And they have taken the counties that are absolutely corporation ridden and projected them into senatorial districts over nearly all of the State for the purpose of preventing any amendment to this corporation-written constitution that they are trying to impose upon the people of New Mexico. [Applause on the Democratic side.]

The rights of the people of no State in this Union have been so bartered away by fundamental law as is proposed in this constitution. [Applause.]

Mr. Chairman, the people of New Mexico ask to be relieved from this provision, which puts them in the power of the corporate interests of that Territory. Cedric the Saxon never had a stronger hold upon the services of Gurth, the swineherd, than have the corporations of New Mexico upon the votes of the majority of the people of these five counties. [Applause on the Democratic side.]

Mr. Chairman, from this you can see the difficulty that the people will encounter in procuring the submission of an amendment.

But that is not the greatest difficulty they will have. That will come when they have an amendment voted on by the people. Of course, it must get a majority of the votes polled for the amendment. Then it must get 40 per cent of all the votes polled in the whole State at a general election. So, of the people who go to the election, interested in the election of county and State officers and Members of Congress, those who do not vote on the amendment at all will be counted against the amendment.

But that is not all. They could even stand that, Mr. Chairman, but there is another provision, and I defy any man upon this floor to point to a single State in this Union that has a provision anything like approaching the one I am going to mention now. It is this: Not only must they get a majority of all the votes polled on the amendment, not only must that be 40 per cent of all the votes polled in the State, but it must be 40 per cent of the votes polled in at least 50 per cent of the counties.

There are something over 60,000 voters in this Territory now. Nearly that many have been polled in elections between contending candidates. I have made a calculation, and I find that if the constitution had been submitted at a general election and a full vote polled, and if this provision had been applied, there were 11 of these counties which did not cast votes enough for the constitution to constitute 40 per cent of the full vote that in all probability would have been cast. And if there had been a change of about 250 votes in three other counties, under a provision like this, the constitution itself would not have been adopted at the election in January, notwithstanding the great desire of the New Mexican people to become a State. [Applause on the Democratic side.]

The corporations have the people of this Territory by the throat; and under this constitution which they have forced upon them, with its unfair apportionment, they will, unless we give the relief provided in this resolution, rally its mercenaries in the counties where they are strong behind the ramparts of countless moneybags and hold the State indefinitely against the will of the people. [Applause.]

Mr. FERRIS. Will the gentleman from Virginia yield?

Mr. FLOOD of Virginia. For a question; my time is short.

Mr. FERRIS. Along the line of the gentleman's argument, and in support of it, I want to call his attention to a question submitted in our State, showing that the people vote for the head of a ticket and much less for a proposition away down the line. In our State the Torrens land system was submitted, and while there was a vote of between 250,000 and 260,000 for governor on the Torrens land-system proposition, which was a proposition other than the head of the ticket, they cast only 198,282 votes, over 50,000 less than for the head of the ticket.

Mr. FLOOD of Virginia. That is the case everywhere. Gentlemen representing every shade of political thought in New Mexico appeared before us, asking to be relieved of this infamous and binding article upon amendments. There were representatives of the Democratic Party, four gentlemen appointed by the Democratic executive committee of this Territory, who appeared and made this request. There was a representative of progressive Republicans in New Mexico preferring a similar request. A representative of the Anti-Saloon League appeared and made a similar request. A representative of the Women's Christian Temperance Union appeared and made a similar request. The only organization that did not make this request was that of the stand-pat Republicans of New Mexico, who seem to be hand in glove with and controlled and owned by the corporations of that Territory. [Applause on the Democratic side.]

They ask us, Mr. Chairman, to relieve them of the tyranny and oppression of the corporations that had robbed their people and their Territory. They gave us every reason to believe that if we would give the people an opportunity to vote for a substitute for the article on amendments that that substitute would be adopted, and in the future we could expect to see this new State controlled by its people, instead of by the bosses and corporations that have in the past plundered and exploited them. [Applause on the Democratic side.]

The proposed constitution attempts to secure the original Mexican or Spanish-American population of New Mexico in their equal right of suffrage and in the enjoyment of equal rights of education with other citizens, present and prospective, of the new State. Your committee has not only, by its proposed amendment of said article 19, preserved such rights as are secured in the proposed constitution, but has made sections 1 and 3 of article 7, on the elective franchise, and sections 8 and 10 of article 12, on education, more difficult of amendment than is provided in said proposed constitution, to the end that the Spanish-American population of said Territory shall be made secure for the future in the enjoyment of equal rights of suffrage and equal rights of education.

It will be noted that the amendment suggested in the substitute reported is not made mandatory, but is to be submitted to the electors for ratification or rejection, as a majority may determine, thus putting the whole matter under control of the people of the new State and so providing that they can consider and vote again on that particular article of their constitution; and no reason, except one of partisanship, can be advanced why they should not have this right. [Applause.]

It has been represented to your committee, and is no doubt true, that the people of the Territory were so very desirous of securing statehood that when the proposed constitution was submitted its merits and demerits were not carefully considered; but being submitted to them as it was, as a whole, a large majority, through their great desire to secure statehood, voted for it without regard to what its provisions were. The amendment

suggested by the substitute resolution reported by this committee will give them the power and opportunity which they otherwise would not have to change any provision which, in their desire for statehood, may not have been sufficiently considered when the proposed constitution was ratified. [Applause.]

SEPARATE BALLOT.

It will be seen from section 4 of the substitute resolution that provision is made for a separate ballot for the purpose of voting upon such amendment, which is to be printed on paper of a blue tint, so as to be readily distinguishable from the white ballots, which will be used for the election of officers at the same election, and that these ballots are to be delivered only to the election officers authorized to have custody of the ballot boxes and to be delivered by them to the individual voter when he offers to vote.

The provisions in reference to this separate ballot were provided because the election is in other respects to be held under and subject to the election laws of New Mexico now in force, which do not provide for a secret ballot and under which ballots are required to be "printed on plain white paper 3 inches in width and 8 inches in length or within one-quarter of an inch of that size." And said ballots are to have the names of all candidates for the respective offices printed thereon, and if the suggested amendments were required also to be printed on these ballots it is obvious that there would scarcely be room for that purpose, and, in fact, as the amendments are to be printed in two languages, it would be impracticable, if not impossible, to print them on ballots of that size, and, besides, under the present election laws of the Territory, the ballots can be distributed indiscriminately among the people sometime before the day of election, and, in other respects, these election laws are lacking in the usual safeguards while the provisions provided for by the substitute resolution of the committee in reference to the separate constitutional ballot will guarantee the necessary and usual safeguards. [Applause.]

BOUNDARY LINE.

The substitute resolution provides, as did the original resolution, for an amendment in reference to the boundary line between New Mexico and the State of Texas.

This provision was incorporated in the joint resolution so that there might be no mistake as to this boundary line. In the past there has been a disagreement on this subject.

Some years ago a survey was made, known as the Clarke survey, to settle this dispute. Legislation has been had in Congress and in the Legislature of Texas confirming the Clarke survey. The New Mexico constitution disregarded the Clarke survey, and when this was learned a joint resolution was passed by Congress and approved on February 16, 1911, by the President, declaring the line established by the Clarke survey to be the proper boundary line between New Mexico and Texas; now to prevent any question being raised as to whether this joint resolution admitting New Mexico as a State with a constitution fixing a boundary line different from the one established by the Clarke survey superseded the joint resolution of February 16, 1911, we have provided that the admission of New Mexico shall be subject to the terms and conditions of that joint resolution.

SPANISH-AMERICAN CITIZENS.

The substitute provides for the repeal of that part of the enabling act which prescribes the qualifications for members of the legislature and officers in the new State to be the ability to read, write, and speak the English language. There never was any just reason for compelling such a provision to be incorporated in the constitution of New Mexico. No such provision has been in the laws enacted for the government of this Territory during the 60 years that it has been a part of this country, or any other of our Territories. It is violative of the conditions upon which the Spanish-American portion of the population of New Mexico became citizens of the United States. These people constitute a most meritorious class of the citizenship of that Territory and are nearly one-half of its population. From the evidence before the committee it is clear that they are a very different class of people from the inhabitants of Mexico. They are descendants of Spaniards who settled this part of the country in 1595, and owed their allegiance directly to Spain. In the twenties they became subject to the Mexican Government, but never had much intercourse with the Mexican people. This allegiance continued for more than 25 years, when this part of the country was ceded to the United States. Under the treaty of Guadalupe Hidalgo they were guaranteed "all the rights of citizens of the United States according to the principles of the Constitution." By the Gadsden treaty the same provision was made. It was also contained in the organic act establishing the government of New Mexico. The people are largely agricultural and pastoral; they are honest, industrious, hospitable, frugal, and patriotic. There can be no better class of citizens for rural communities than they are described to be. English is being taught in all of the schools of the Territory now and the population largely speaks English, but some of the most highly respected and most intelligent citizens of that Territory do not understand it sufficiently well to enable them to qualify for membership in the legislature or to hold any other office under this enabling act and constitution. The people of the Territory who are of Spanish descent naturally feel that this is an unjust discrimination against them and a breach of faith on the part of Congress. They feel that they took possession of this country, that they carved a civilized State out of the wilderness, that they wrested it from the Indians and consecrated it forever as the theater of the transcendent achievement of the Spanish-speaking people upon the American Continent. They are desirous that this restriction should be removed, and with this desire I fully sympathize. [Applause on the Democratic side.]

ARIZONA.

Now, Mr. Chairman, I want to say a few words about Arizona. We recommend that New Mexico be admitted, we believe its constitution is republican in form. We had some doubt about it at first, but we solved that doubt in favor of the constitution. We believe that the constitution of Arizona is republican in form, and we believe that the arguments made here denouncing it springs from partisan motives and a deep-laid and skillfully planned effort to keep this brave and glorious Democratic State out of the Union. [Applause on the Democratic side.]

Mr. LAFFERTY. Will the gentleman yield for a suggestion?

Mr. FLOOD of Virginia. No; I have not time. I would be glad to yield to the gentleman.

Mr. LAFFERTY. It is only for a suggestion.

Mr. FLOOD of Virginia. I do not need any aid, and I think I can make my own speech. I do not mean to be discourteous to the gentleman, but my time is very limited.

Now, Mr. Chairman, the minority of the committee say that Arizona's constitution, because of the recall of judicial officers in it, is fundamentally destructive of a republican form of government. It is curious, Mr. Chairman, that gentlemen will take the position that a constitution having the initiative in it, the referendum in it, and the recall of all the officers is not unrepublican on account of those provisions, but that the recall of judges makes it antirepublican.

I see my distinguished friend, the gentleman from Pennsylvania [Mr. OLMSTED], who made an able argument along this line last week. I read the newspaper after going home, from the delight I experienced at hearing his speech, and found that the House of Representatives of Pennsylvania came very near mobbing the speaker because he refused to allow them to vote on a constitutional amendment to submit to the people whether there should be an initiative in Pennsylvania. [Applause on the Democratic side.]

Instead of trying to keep Arizona out of the Union because she wishes to recall her judicial officers when they are corrupt or when they are not true to their duties, my friend had better go back home and try to keep the legislature and electorate of the old State of Pennsylvania straight.

Mr. OLMSTED. If the gentleman will yield, I did not object to Arizona's constitution on account of the initiative and referendum, but simply on account of the recall.

Mr. FLOOD of Virginia. Yes; on account of a much less republican provision. If the gentleman had objected to it on account of the initiative, I would have thought possibly there was some consistency in his position, but he objected to it as not being republican on account of a much less republican provision, that of the recall of the judges. [Applause on the Democratic side.]

The substitute proposes to the people of that Territory an amendment by which they can vote upon the article on the recall of public officials, so that it will not apply to judicial officers. Whether the recall of public officials is wise or unwise is a matter which was not considered by the committee, as we did not feel that it was in our province to determine this question. I am satisfied and the committee was satisfied, however, that the article on recall of public officials does not render the constitution unrepublican in form.

While these were our views, we did feel that the same desire existing in that Territory for statehood that existed in New Mexico might have induced the people to vote for this provision of their constitution, which has been so savagely attacked, through their desire to obtain statehood and not because they favored it. We therefore thought it just to them and wise to give them an opportunity to vote upon this provision again, and

also wished to make this substitute in reference to Arizona meet as near as we could the views of the President of the United States as we understood them. The minority, including the Delegate from Arizona, who have been so desirous that nothing should be done to delay the admission of New Mexico, seem equally anxious to prevent the admission of Arizona as a State. These gentlemen have recommended a resolution which will deny statehood to the people of Arizona, unless they surrender their manhood and their principles and vote as those gentlemen dictate. They propose that Arizona shall not only vote upon an amendment to her constitution, but that her people shall vote as they tell them to vote, and unless they do this they will be denied the right of statehood.

They are not willing to trust the people who bear the burdens of government; they declaim with great eloquence against giving the people too much power, forgetting that in a republic the people are the source of all power.

Their anxiety is misplaced. There is no danger that the people will destroy this Government. It is of the people, and they are determined that it shall not perish from the face of the earth, and, in turn, the Government will protect its citizens. It will take trusts and monopolies by the throat; it will equalize the burdens of taxation. It can distribute its privileges impartially, and, Mr. Chairman, it can do more—it can trust the people, in whose name it was founded, in whose courage it was defended, in whose wisdom it has been administered, and in whose stricken love and confidence it can not survive. [Applause.]

No attack is made upon the constitution on account of the initiative and referendum or the recall as applied to any other officers than judges. I can see no reason why the republican form of this constitution is affected by the recall of the judiciary more than it is by the recall provision as applied to the executive or other officers. If the one makes it unrepublican, then the other would also. Having conceded that the constitution with the recall of executive officers is republican in form, it is difficult to understand what argument can be advanced to demonstrate why the application of this principle to the judiciary would make a constitution antirepublican, and no reason why the one class of officers can be differentiated from the other has been given in this debate. [Applause.]

I want to say, Mr. Chairman, that I yield to no man in the respect I entertain for the judiciary. I come from a State which has given the greatest judges who have adorned the bench of this country and where the people not only respect, but revere, the judges. I have too much respect for both the people and the judges to believe that the power of recall in the people will affect the integrity, the ability, or the fearlessness of those who occupy judicial positions.

The question for us to decide is whether the recall is antirepublican. Reverting to the Federal Constitution, we find that while section 4 of Article IV was under discussion in the constitutional convention Gov. Randolph, of Virginia, offered a resolution, which was amended by Mr. Madison, and reads as follows:

> The republican constitutions and the existing laws of each State to be guaranteed by the United States.

Mr. Wilson, of Pennsylvania, offered an amendment to this which was adopted and which we find in the Constitution, as follows:

> The United States shall guarantee to every State in this Union a republican form of government.

While this resolution was being discussed Gov. Randolph made the following statement:

> The republican government must be the basis of our National Union, and no State in it ought to have the power to change its government into a monarchy. (1 Elliott's Debates, 453.)

Immediately after this statement by the author of the resolution, it was unanimously agreed to. Here is a clear-cut statement of the purpose of the guaranty. It guaranteed against the rule of the few and not against the exercise of power by the people.

In the Federalist Mr. Madison defines a republic to be:

> A government which derives all its powers directly or indirectly from the great body of the people, and is administered by persons holding their offices during pleasure, for a limited period, or during good behavior.

Under this definition the recall is properly a part of a republican form of government, because it is provided that the officers shall hold during pleasure, which means the pleasure of the people.

Mr. Wilson, who helped to frame this provision, afterwards became a Justice of the Supreme Court of the United States, and in the case of Chisolm *v.* Georgia (2 Dallas, 457), gives the definition of a republican government to be one where "the supreme power resides in the body of the people."

The discussion of this question in the Federalist, in the textbooks, and by the Supreme Court of the United States, leads to the conclusion that the phrase "republican form of government" was used in the Constitution as contradistinguished from a government in which the few are the ruling power—a monarchy, an aristocracy, or oligarchy. It follows, then, that had the Federal Government provided for more power in the people, it would have been republican, and it also follows that if there had been a provision that the officers of the government could be recalled at the will of the people, it would still be republican in form.

If, as stated by Madison in the Federalist, a republican government is one administered by persons holding their offices during pleasure, then the fact that the people have a right to recall their officers certainly can not be antirepublican.

The recall system is but another method by which officers of a State or its subdivisions may be removed from their offices. The power to remove officers is generally vested in the legislative department or in some other department of the State government, either by the direct power of impeachment or removal. There can exist no constitutional reason why this power should not be reserved to or vested in the people.

Mr. GRAHAM. Mr. Chairman, will the gentleman yield?

Mr. FLOOD of Virginia. Yes.

Mr. GRAHAM. Is there any better way that you can conceive of to find out what is the pleasure of the people than by the exercise of the thing called the recall?

Mr. FLOOD of Virginia. Well, I do not know that there are not other ways just as good.

Mr. GRAHAM. But the gentleman knows of no other?

Mr. FLOOD of Virginia. Well, I think that when people in mass meetings instruct their representatives, or when their representatives are in constant correspondence with their constituents, they can form a very good idea of what the people do want. I do not mean to commit myself to the recall. I think it is free of many of the objections that have been urged against it, and that these denunciations made of it on this floor are unjustifiable, but I hold they have nothing to do with the question which we are considering, because I do not believe that any gentleman upon this floor will contend that having a provision for the recall of any public official in a constitution renders that constitution antirepublican. No one here has as yet been bold enough or courageous enough to come out and say that this recall provision of the judiciary renders this constitution unrepublican in form; and if it does not, it seems to me that we have but one duty to perform, and that duty is to vote to admit the Territory of Arizona as a State as soon as possible. [Applause.]

I recognize the high and important part the judiciary plays in our system of government, and I would not aid any movement which I thought would weaken the proper powers of that important branch of our Government, but I fail to see the great dangers in this recall provision that some have professed to fear. I do not believe the people who possessed this power would undermine either the independence or the integrity of their judiciary.

In my State, which is exceedingly conservative, there is a provision by which judges can be removed by a joint resolution of the two houses of the general assembly upon 20 days' notice. In every aspect of the case this power of removal in the legislature is as destructive of the independence and integrity of the judiciary as would be the recall vested in the people, because if popular clamor was aroused against the judges it would find expression in the legislature as quickly as it would at the polls; but we have never found that it interfered in the slightest with the character of our judges or the administration of justice.

Virginia is the home of great judges, and her bench is adorned to-day by a set of judges who in ability, in character, in learning, and in independence are the equals of the great judges of the past, of and from Virginia, who added so splendidly to the glory of the judicial history of their State and country. [Applause.]

The fact that the legislature that elected them had power to recall them has never affected the standing or the conduct of our judges. And, Mr. Chairman, there are 12 other States that have a provision for removing judges similar to that of Virginia. Congress is not called upon in this matter to pass upon the wisdom, advisability, or beneficial results of this provision. It may be productive of all the evil results which its most ardent opponents have urged; our individual opinions may be that it is unwise and pernicious in its operation. On the other

hand, it may be the wisest provision ever incorporated in the fundamental law of a State; but these are not the questions which we are now considering or which Congress is called on to pass upon. The sole question is whether or not the provision is antirepublican and renders the government of a State in whose constitution it is embodied unrepublican in form.

To hold that a government embodying the recall of judges is not republican in form is to say to the people of Oregon that they have violated the Constitution of the United States; that their government is such as they have no right to maintain; that their Senators and Representatives shall not be admitted to seats in Congress, and that Congress has heretofore erred in so doing. It would be to say to the people of California and of other States that they have not the right or power under the United States Constitution to exercise the powers of recall over their judges, and if they do so we will relegate them to a Territorial form of government.

We may not individually believe that this provision is wise or that it is best for the interest of the people that it should be exercised by them, but I do not believe a dozen men here would go so far as to say to them that they have not the constitutional right to exercise it if they so desire.

It seems to me that no other conclusion can be reached than that this provision is not antirepublican, and that the government of Arizona, under its proposed constitution, is republican in form. [Applause.]

Mr. Chairman, speaking of Arizona brings to the minds of the older Members in the service here the name of Mark A. Smith. His ability and distinguished service in the cause of his people won the respect of everybody here. His many qualities of heart bound us to him, and I do not think it is saying too much to say that it was due to his intelligent and well-directed efforts that the infamy of uniting these two immense Territories as one State was not finally consummated. [Applause.]

His many appeals on the floor of this House for justice to Arizona still sound in our ears. In all his service he did not burden her with one weight or hindrance. Not a single opportunity to aid or to force her progress did he permit to escape his vigilant and ready action. I am afraid the present Delegate from Arizona can not have as much said for him. I was astonished, Mr. Chairman, when he signed this minority report. I must think that the gentleman was led to deal this blow at his people by his partisan stand-pat Republican associates on that side of the Chamber, who seem, in this instance as in other instances heretofore, willing to put partisanship above the rights of a whole people. [Applause on the Democratic side.]

Mr. Chairman, it is discouraging to see gentlemen of such intelligence and of such high character giving away to partisan considerations in great and momentous questions of this kind. In a great and free country like this partisanship can have no secure basis or foundation. In a land which we all love and which we all alike hope and believe will endure, mere party advantage is but temporary and fleeting, but the fruition of the hopes of the people of this Territory will bring lasting and enduring blessings not only to themselves, but to the people of this entire Republic. [Applause.]

Mr. Chairman, I am just as desirous of seeing New Mexico admitted into the Union as I am of seeing Arizona admitted. These two Territories have been retarded in their growth and development by reason of not having been granted the right of statehood. It has been difficult to get capital with which to develop their marvelous resources. Development has been stopped. Industrial immigration has been halted. Statehood will remove these disadvantages and these barriers to their progress. They have done everything that a people could do unaided and alone with the governments which they have had.

New Mexico has a population of 327,000, more than double what it was 20 years ago. Arizona has a population of 204,000, nearly treble what it was 20 years ago. New Mexico has taxable values of $300,000,000; Arizona has taxable values of $450,000,000. Each Territory is an empire in extent.

I have often, Mr. Chairman, admired the beautiful and animated fresco that we see as we go up the stairs to the House gallery over there. It represents a caravan traveling to the west in the days when there were no railroads. These people have just reached the highest peak of the Rocky Mountains and they stand in awe and wonder, gazing at the beautiful vision before them, which stretches out to the setting sun. If we can imagine them on the spur of the mountains that separate Arizona from New Mexico, we can see them looking back 300 miles to the Texas line, over New Mexico, and looking forward for an equal distance of 300 miles, over Arizona, to where the Colorado River empties into the Gulf of California—a territory in square miles in each of these proposed States equal to all of New England, New York, and New Jersey combined.

These people have accomplished wonders. They have built cities, towns, and villages. They are cultivating land, operating mines, and running factories. A substantial school system exists in each Territory. Highways are running in every direction. Railroads are being built to all important points, and many irrigation projects of immense size are adding to the productiveness of their acres. All they need is statehood. This will give a splendid impetus to these people, to their development, and to their growth. Population will pour in. The money necessary to develop their resources will be readily secured. And these new States, with constitutions germinating in the hearts of their people and adopted at the polls by the free and untrammeled votes of their citizens, will stride forward to that splendid destiny which we have every reason to believe a kind Providence, aided by the energies of man, has in store for them. [Loud applause.]

Mr. LINDBERGH. There is a difference between a government limited as by the Federal Constitution and a people's or popular government run by popular choice. I make that distinction in order that my few statements may not be misunderstood.

The United States is not, within strict interpretation, a people's or popular government, but is a constitutional government. The United States may be said to be governed by the people, except where the Constitution represses. That instrument does limit the majority. It makes no difference that originally the people through their servants framed the Constitution. Those who did that have long since gone and are no longer the people. They left posterity an instrument that limits in several respects the privilege of majority rule.

The only time that this country was in a position to be governed by the people was the period of 12 years between the Declaration of Independence and the adoption of the Constitution. Since that time it clearly appears, by interpretation of the courts enforced by judicial decrees, that the people are not entirely in possession nor control of their own Government. In one respect it would require unanimous consent, or practically so, to change the Constitution. For instance, "No State, without its consent, shall be deprived of its equal suffrage in the Senate." The State of New York, with nearly 10,000,000 people, has no greater representation in the Senate than the State of Nevada with a population of 81,000; that is, one person in Nevada has a representation in the Senate equal to 123 in New York. Even if all the other States should decide by unanimous vote that each State should have a representation in the Senate in proportion to population, such a decision could be nullified by a majority of the State of Nevada. There would be no way to overcome that except by revolution. There are many cases in which the Constitution prevents the people by majority to rule, the most conspicuous being the manner required to amend the Constitution itself.

The Constitution is a great instrument and has been looked upon as evidence of the profound wisdom of its authors. The good faith and great foresight of its founders is not questioned. It must not be overlooked, however, that the Constitution was a compromise. Some of its provisions were placed there to meet certain emergencies existent at the time of its adoption and not because in themselves they were preferred. In fact, they were, some of them, most strenuously opposed. The Colonies were weak and had to compromise their differences, resulting in some provisions that have later repressed the people.

I have no sympathy with all this talk about the sacredness of old instruments of government, regardless of their fitness for this generation and the future. We can not progress and at the same time follow cumbersome old forms that really block progress. All rules made in the past that are suited, let us keep as long as experience shows them suited to present necessities; but whenever experience shows the need of change, let no fetish reverence for the past methods repress the present and future necessities.

My respect for government rests primarily in the ability of the people to conduct it. Succeeding generations should be better able to master the problems of their own than the people of earlier generations could do it for them. Each generation should conduct the affairs of its own times, and when a majority rules that can be done. So much of the past as is worth while would naturally be adopted. Now, since we have our growth principally in our native born, I do not believe we should be tied up with constitutional limitations that will pre-

vent a majority from changing the Constitution and making such laws and regulations as shall seem best, provided the change is determined by the people.

We can imagine wrongs that a majority could, if it would, do to a minority, but I am not with those who anticipate that the majority will be less just than a minority. We suppose this to be a government by the people, and I am willing to trust it as such. My votes, so far as I am able to cast them, will give the fullest credit to that purpose.

The objection that is pressed the hardest by some to the proposed constitution of Arizona is the provision for the recall of judges. Some have worked up their imaginations to the extent of believing that excitements might and probably would sometime arise and carry in their waves the recall of judges. It is believed by them that the people would go through all the forms required for the recall of judges who had decided cases in accordance with law. Those who carry prejudices of that nature are more considerate of the individual than of the public. Even suppose it happened several times in a century, which is not likely, the fact of the recall would not reverse the cases. They would stand as they had been decided. If the decisions were wrong, the recall would not be wholly unmerited. As things are now, a judge can not be removed except by impeachment, which, except under the most extraordinary circumstances, is impractical.

It is well known that with responsibility comes caution. The recall would make people cautious in the exercise of the right. The very fact that we had the law of the recall would create a steadiness of purpose and feeling of responsibility in the people that would far outweigh indiscretions that might possibly occur.

It is odd that those who oppose the purposes of securing the nearest we can to popular government should assume mistakes by the people while they give no excuse for the innumerable mistakes of the courts. I refer you to the findings of the courts for the most contradictory decisions imaginable. In nearly all of several thousand volumes of reports of decisions in this country you will, on examination, find that the courts have overruled, reversed, and revised the decisions of judges so often that no one can say what the law is. Everyone is presumed to know the law, and yet no one does know the law.

The legal procedure would not be more simplified by the recall, but it would impress judges with the fact that they should consider the side of the public with as much care as they do the side of the individual. There is an old saying that what is everybody's business is nobody's business, and it seems that in the interpretation of constitutions and statutes it has often been nobody's business to keep the interpretation consistent with a common national purpose.

The judges should keep a little closer to the people, and with the law of recall it is quite likely they will; not that they should be unfair to individuals, for that would not be serving the public's best interest. The public is most interested in keeping private rights consistent. The public is most interested in preserving private rights, for the public is merely an aggregation of individuals, but the public is opposed to special favors to individuals.

I do not, of course, think it practicable for the public in general to enter into all the intricacies of the law, but the people are fair and will treat those whom they trust with that duty with great consideration and respect, and the law of recall will furnish a moral influence that will be of inestimable value to the common interests of the country.

Whenever we generally establish laws for the initiative, the referendum, and the recall to apply to all matters that pertain to the public interest in connection with the administration of the affairs of the people in common, we shall find the responsibility accepted and dealt with by the public in such manner as will make it much easier for public officials to do their duty unincumbered by the influence of special interests. Get the great office-holding body of this country to understand that they owe their places to the public and that instead of being interested in the public just before each election they are to be interested all the time, it will make everybody independent to do what seems best.

Mr. SULZER. Mr. Chairman, I am a friend of the people of Arizona and of New Mexico, and I want to do all I can to protect their rights and promote their general welfare. For years these good people have been knocking at the doors of Congress for justice, for relief, for their rights, and the Congress has turned to them a deaf ear. They are American citizens, and they want the rights of American citizens.

The people of New Mexico and Arizona want to govern themselves. They want statehood, and they should be admitted as States. The people of Arizona and New Mexico want to make their own laws. They should be admitted as States. For 40 years they have been begging Congress for this fundamental right, and for 40 years Congress has closed to their appeals the doors of opportunity, of equal rights, of justice, and of statehood. How much longer must they plead? How much longer must they wait? The refusal of Congress to grant them statehood is a substantial denial of constitutional rights, and contrary to the spirit of our free institutions.

Let us stop treating Arizona and New Mexico like conquered provinces. Let us grant them the rights they demand. Let us permit these Territories to come into the Union, so that they can govern themselves and make their own laws. The people of these Territories are as brave, as honest, as intelligent, and as patriotic as any other citizens in our land. They want to govern themselves. They want home rule. They demand statehood. Let us be true to ourselves and grant them all the rights and all the privileges enjoyed by all the rest of the citizens of the States of the Union. New Mexico must be a State. Arizona must be a State. Now is the time to grant them this sovereign boon.

The people of Arizona and New Mexico want the right to govern themselves, and sooner or later it must be granted to them. I know something about that vast domain. I know something about the sentiment of the people who live there, and I stand here and declare, with the confident knowledge that I can not be successfully contradicted, that the people of these Territories—the people who have gone there, and who have lived there for years, and who are bona fide residents of these Territories, and intend to stay there during the rest of their lives—I know what they want, and I declare here that they want what every other Territory has received, and that is statehood. They want the right that every other State in the Union has—the right to make their own laws, to levy their own taxes, to regulate their own internal affairs, and to spend the money gathered by the tax collector for their own use, for their own schools and for their own charitable institutions. Should this substantial right to these Territories longer be denied by Congress?

Why not give Arizona and New Mexico statehood and let them govern themselves? The principles of self-government are dear to the American heart. They constitute the corner stone of the Republic. The people in Arizona, the people in New Mexico are entitled to home rule, are entitled to self-government, and the only way they can get it is through the agency of statehood.

Hence, Mr. Chairman, I shall vote for the pending bill to admit these Territories of Arizona and New Mexico to statehood, and I indulge the hope that the day is not far distant when they will be States in the Union with all the rights and all the privileges of all the other States under and by virtue of the Federal Constitution.

[Mr. SABATH addressed the committee. See Appendix.]

By unanimous consent, leave to revise and extend remarks on the subject of the statehood bill was granted to Mr. KAHN, Mr. MCCALL, Mr. CAMERON, Mr. STEPHENS of Texas, Mr. SAUNDERS, Mr. HARDY, Mr. WILLIS, Mr. LITTLETON, Mr. RAKER, Mr. BORLAND, Mr. SABATH, Mr. SULZER, and Mr. LINDBERGH.

Mr. FLOOD of Virginia. Mr. Chairman, general debate having closed, I ask that the resolution be reported and read.

The CHAIRMAN. Under the order of the House, general debate having closed, the Clerk will report the resolution for amendment.

Mr. KENDALL. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. KENDALL. For a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. KENDALL. Before the Clerk begins to read the resolution I want to inquire when the right of amendment will arise.

Mr. FLOOD of Virginia. I did not hear the gentleman from Iowa.

Mr. KENDALL. I inquired of the Chair what would be the ruling of the Chair as to when amendments would be in order.

The CHAIRMAN. The Chair would say, in response to the inquiry of the gentleman, that in his opinion the regular order will be the reading of the original resolution by sections, and that at the conclusion of each section amendments to the original resolution will be in order; that is, down to line 6, on page 3. After that the committee amendment, which is a substitute, will be read as a whole, and it will then be open for amendment. The Clerk will again report the bill.

The Clerk read as follows:

Joint resolution (H. J. Res. 14) approving the constitutions formed by the constitutional conventions of the Territories of New Mexico and Arizona.

Resolved, etc., That the constitution formed by the constitutional convention of the Territory of New Mexico, elected in accordance with

the terms of the act of Congress entitled "An act to enable the people of New Mexico to form a constitution and State government and be admitted into the Union on an equal footing with the original States, etc." approved June 20, A. D. 1910, which said constitutional convention met at Santa Fe., N. Mex., on the 3d day of October, A. D. 1910, and adjourned November 21, A. D. 1910, and which constitution was subsequently ratified and adopted by the duly qualified electors of the Territory of New Mexico, at an election held according to law on the 21st day of January, A. D. 1911, being republican in form and not repugnant to the Constitution of the United States and the principles of the Declaration of Independence, and complying with the terms of said enabling act, be, and the same is hereby, approved, subject to the terms and conditions of the joint resolution entitled "Joint resolution reaffirming the boundary line between Texas and the Territory of New Mexico," approved on the 60th day of February, A. D. 1911.

Mr. MANN. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Illinois offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend page 2, line 10, by striking out the word "sixtieth" and inserting in lieu thereof the word "sixteenth."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 2. That the constitution formed by the constitutional convention of the Territory of Arizona, elected in accordance with the terms of the act of Congress entitled "An act to enable the people of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States, etc." approved June 20, A. D. 1910, which said constitutional convention met at Phoenix, Ariz., on the 10th day of October, A. D. 1910, and adjourned December 9, A. D. 1910, and which constitution was subsequently ratified and adopted by the duly qualified electors of the Territory of Arizona at an election held according to law on the 9th day of February, A. D. 1911, being republican in form and not repugnant to the Constitution of the United States and the principles of the Declaration of Independence, and complying with the terms of said enabling act, be, and the same is hereby, approved.

Mr. MANN. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk and ask to have read.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois [Mr. MANN].

The Clerk read as follows:

Amend by striking out section 2 of the resolution and inserting in lieu thereof the following:

"SEC. 2. That the Territory of Arizona be admitted into this Union as a State with the constitution which was formed by the constitutional convention of the Territory of Arizona elected in accordance with the terms of the enabling act, approved June 20, A. D. 1910, which constitution was subsequently ratified and adopted by the duly qualified voters of the Territory of Arizona at an election held according to law on the 9th day of February, A. D. 1911, upon the fundamental condition, however, that article 8 of the said constitution of Arizona, in so far as it relates to the "recall of public officers," shall be held and construed not to apply to judicial officers, and that the people of Arizona shall give their assent to such construction of article 8 of the said constitution.

"That within 30 days after the passage of this resolution and its approval by the President, the President shall certify the fact to the governor of Arizona, who shall, within 30 days after the receipt of such certificate from the President, issue his proclamation for an election by the qualified voters of Arizona, to be held not earlier than 60 nor later than 90 days thereafter, at which election the qualified voters of Arizona shall vote upon the proposition that "Article 8 of the constitution, in so far as it relates to 'recall of public officers,' shall be held and construed not to apply to judicial officers," and shall also vote for State and county officers, members of the State legislature, and Representatives in Congress, and all other officers provided for in said constitution of Arizona; said election to be held and the returns thereof made, canvassed, and certified as provided in section 23 of the enabling act approved June 20, 1910.

"If a majority of the qualified voters of Arizona voting at such election ratify and adopt the herein proposed construction of article 8 of the constitution, the same shall be and become a part of the said constitution, and said article 8 of said constitution, in so far as it relates to the "recall of public officers," shall have like effect as if judicial officers were expressly excepted therefrom.

"If the proposed construction of said article 8 of the constitution is duly ratified and adopted by the qualified voters of Arizona, the election of officers at the same election shall be and become valid and effective.

"When said election as to the proposed construction of the said constitution and of State and county officers, members of the legislature, and Representatives in Congress, and other officers provided for in said constitution has been held, the result thereof shall at once be certified by the governor of the Territory of Arizona to the President of the United States, and if the proposed construction of article 8 of the said constitution of Arizona has been ratified and adopted by a majority of the qualified voters of Arizona voting at such election, the President of the United States shall immediately make proclamation thereof and of the result of the election of officers, and upon the issuance of said proclamation by the President of the United States, Arizona shall, without other proceeding, be deemed admitted by Congress into the Union by virtue of this joint resolution, upon the terms and conditions of the said enabling act approved June 20, 1910, except as modified herein, and on an equal footing with the other States."

The CHAIRMAN. The question is on the amendment.

Mr. STEPHENS of California. Mr. Chairman, my home is in Los Angeles, Cal. I had not intended to speak as early in the session as this, but I am so concerned in the initiative, referendum, and recall that I can not sit quietly by and have a vote upon this question without saying a word or two.

Before I go further, and for fear I may not distinctly say it before my short time is over, I want to declare now that I am in favor of the initiative, the referendum, and the recall, and that I am in favor of the recall of judges as well. [Applause.]

In the city of Los Angeles we have had the initiative, the referendum, and the recall for almost 10 years, and each succeeding election has shown that the people of my city are more strongly in favor of all three of those propositions than they were at the previous election. [Applause.]

Take the initiative. In the city of Sacramento the wisdom of that proposition has been well demonstrated. Within the last few years the city council of Sacramento, being tied down by a great corporation in the State of California, refused to allow another railroad corporation to build a competing line through that city; but the people found in their charter and ordinances a provision which allowed the initiative to be invoked, and it was invoked, with the result, if my recollection serves me right, that by a vote of 45 to 1 the people of the city of Sacramento voted to have this competing corporation build its lines through the city. [Applause.] From that time to this the city of Sacramento has grown apace.

In the city of Los Angeles we have had demonstrations of the usefulness of the initiative, as well as the goodly effect of the referendum.

Let me call to your attention a particular instance of the value of the referendum. Some years ago, without any previous notice to the people, a measure was brought before the city council granting to a corporation the free use forever for railroad purposes of the river bed that goes through Los Angeles. To make a long story short, that ordinance was passed by the city council. It only awaited the signature of the mayor, who was away; but before the mayor returned the people were getting ready for a referendum and recall. The final result was that because of the referendum and the recall which would follow, the city council retracted and took back everything that they had done, and to-day Los Angeles is possessed of a river bed of inestimable value for many uses. [Applause.]

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. SIMS. I ask unanimous consent that the gentleman's time be extended 10 minutes.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent that the time of the gentleman from California be extended 10 minutes. Is there objection?

Mr. MANN. Reserving the right to object, I should like to inquire of the gentleman from Virginia whether it is his intention to press this matter to a vote to-night, if that is the temper of the House?

Mr. FLOOD of Virginia. Yes; we certainly want to get a vote to-night.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. STEPHENS of California. In consequence of this action and in consequence of their having the referendum and the recall in their charter the people of Los Angeles are still possessed of this wonderful river bed that can be made an inlet and an outlet for the future commerce of that city, the value of which can not be determined to-day. It runs into the millions, and we have it under our own control because the initiative, the referendum, and the recall are in our charter. [Applause.]

We have had the practical value of the recall clearly demonstrated. A little over two years ago Los Angeles avoided a serious municipal scandal by recalling its mayor and electing in his place a strong and sturdy citizen who served out the unexpired term, was then elected by an increased plurality for a two-year term, and this fall will be reelected for still another term, and by a larger vote than ever.

Now, as to the recall of judges. That is not yet within our city charter, but it soon will be a part of the constitution of the State of California, and after the 10th day of next October, at which time that question will be passed upon, you men will know as well as I do that the State of California will forever and forever retain the initiative, the referendum, and the recall. [Applause.] Is there any reason on earth why a judge should not be subjected to the same laws, the same rules that govern the mayor and the city council and the governor and the legislators of a State? None whatever. I am not a lawyer. I do not know how to plead as you men do. I am only one of the plain people come to you to talk in a plain way about what we believe you lawyers should help us do, and that is to make judges as well as other officers subject to the recall.

You Members know of man after man who has stood on this floor and discussed certain questions for which all of you in

turn probably have taken him to task, alleging that he did not know what he was talking about; that he was wrong about this legal question or that; and yet is that man any different if the next moment he is made a judge of some particular court? Not a bit of it. He does not know any more law, and there is no reason why he should not be subjected to having criticisms made in the way of a recall.

Furthermore, you men, as lawyers, recall a judge every day. Some one of you somewhere does. Why and how? A criminal is arrested, the case is before the court, and you ask for a change of venue. Why? You allege that the judge is prejudiced; that you can not get a fair trial before that judge. Why do you do that?

Mr. BURKE of Pennsylvania. Will the gentleman yield?

Mr. STEPHENS of California. I should like to, and will at some other time, but I beg to be excused at this time, for I have not time. You ask for a change of venue because you say you have not confidence in the judge. Is not that a recall? Have not the people as much right collectively as you have individually to allege that they would like to have a change of venue, to wit, a change of judges? [Laughter and applause.]

Then after you have asked for and got the change of venue you are not satisfied. You virtually say, "Put the defendant over into the other court and I will be satisfied." Then are you satisfied? No; you take exception to every single ruling that the new judge makes. [Laughter.] Why do you do it? Because you are not satisfied, and you say you do not believe the man knows the law, and you go on to a higher court, and from that to a higher court; and finally you get to the Supreme Court of the United States, and then you are not satisfied unless the judgment is in your favor, and you ask for a rehearing. You would do still more than that if you had any opportunity. [Laughter.]

No man can possibly have greater respect for the bench than I have. I believe the right kind of a judge will not be swerved from his honest opinions through fear of the recall, neither will he be influenced by political bureaus of any kind.

Gentlemen, I might talk on; I am so full of this subject that I could talk for an hour. Apropos of that I want to tell you a story. Out in Los Angeles we have a good many Chinamen, who ordinarily understand and speak English fairly well, but when brought into court can not do either, and always ask for an interpreter. A certain Chinaman was arrested for killing a dog, and brought to trial in a justice's court. During the trial the prosecuting attorney asked, "What time was this dog killed?" The Chinaman did not understand, and so the interpreter put a question to him that took about two minutes. The Chinaman gave an answer fully as long. The interpreter turned to the court and said, "Your honor, him say 3 o'clock." [Laughter.]

Now, I could talk for an hour or longer on this subject, but I would like to say "3 o'clock." I believe that unless you favor the majority report as put in by the committee you will do the committee and the country a great wrong, because the initiative and referendum and recall are coming sure, the recall of judges as well. [Loud applause.]

Mr. BURKE of Pennsylvania. Mr. Chairman——

The CHAIRMAN. Does the gentleman rise in opposition to the amendment?

Mr. BURKE of Pennsylvania. Mr. Chairman, I am in favor of the amendment, but in opposition to the argument of the gentleman from California [Mr. STEPHENS]. The instance which is cited by the gentleman from California, in which cases are removed by changes of venue, recalls to my mind one of the most striking arguments against the adoption of the provision for the recall of the judiciary that has been heard in this Chamber since this discussion began. The gentleman is incorrect in his assumption that the changes of venue are asked because of the prejudiced state of mind of the judge; but, on the contrary, where the demand is attributed in one case to the mental attitude of a judge, it is attributed in a thousand instances to the inflamed state of the public mind. [Applause.] That has been the history of nearly all such proceedings since our Government was founded. We have had instances of it in nearly every State in the Union.

Mr. RAKER. Mr. Chairman, is it not a fact that there are only five States in the Union that permit a transfer of a case on the ground of the bias and prejudice of a judge?

Mr. BURKE of Pennsylvania. If that is true, it only adds force to my argument, because of the fact that wise men framed the constitutions of the various States of this Republic. If so few of them expressly guard against it, it proves the evil of small proportions.

Mr. Chairman, during the closing of the general debate two very able gentlemen, leading the discussion for the adoption of this measure as reported by the committee, came from the State of Virginia, and in the closing sentences of one of those gentlemen, the chairman of the committee in charge of the measure, he suggested that certain steps might be taken by the gentleman from Pennsylvania—my colleague [Mr. OLMSTED]—with reference to conditions in our State.

In the course of his argument against the adoption of this measure as it now stands affecting the people of New Mexico, he stated that a great evil had been brought into existence by the people of that State in gerrymandering the Territory of New Mexico in such a manner as to prevent the people from amending their constitution that would guarantee them justice in the future. Mr. Chairman, I wish to suggest this to the people of New Mexico: They must follow one of two schools of politics; they must follow one of two political leaderships—that which brought the measure into the Sixty-first Congress or that which produced the measure before us for consideration now. The one before us now is fathered by the gentleman from Virginia [Mr. FLOOD], and he says in effect that because of the fact there was a gerrymander in the Territory of New Mexico, therefore that Territory is corporation ridden. Mr. Chairman, if a gerrymander is evidence of a control by corporations I want to suggest from the records of the Sixty-first Congress the most flagrant case of a violation of the spirit of the law which the gentleman complains of is found in the State from which the gentleman himself hails. The most vicious gerrymander that has come under the observation of the Congress of the United States in the last 10 years was perpetrated in the State of Virginia in 1908, and I will state the instance and cite the law. It is not so far back that the memory of every man in this House——

The CHAIRMAN. The time of the gentleman has expired.

Mr. BURKE of Pennsylvania. Mr. Chairman, I ask unanimous consent that my time be extended for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BURKE of Pennsylvania. Mr. Chairman, under the constitution of Virginia it is provided that apportionment shall be made as nearly as practical with an equal number of inhabitants in each district. Under the act of 1906 the fifth district of Virginia had a population of 175,000. The unit of population provided for in the general measure was 180,000.

Mr. BOOHER. Mr. Chairman, I make the point of order that the gentleman is not talking to the amendment.

Mr. BURKE of Pennsylvania. Mr. Chairman, I submit I am discussing the evils of a form of apportionment under the constitutions of the States in this Union, and I am citing the act of the legislature under the constitution of the State of Virginia in proof of my argument, and, if it is pertinent and virtuous, then I am in order; if it is vicious and impertinent, then I am out of order, and so is the State of Virginia.

The CHAIRMAN. The gentleman from Pennsylvania will proceed in order.

Mr. BURKE of Pennsylvania. Mr. Chairman, under the apportionment act of 1906 the fifth district of Virginia——

Mr. BOOHER. Mr. Chairman, I again make the point of order that the gentleman is not talking to the amendment.

Mr. BURKE of Pennsylvania. Mr. Chairman, I am speaking to the amendment.

Mr. BOOHER. The point of order is that there is nothing in this amendment concerning the apportionment of New Mexico or Virginia, or any other place. It touches only the recall of judges.

Mr. BURKE of Pennsylvania. Mr. Chairman, I am discussing the adoption of the constitution in the amended form proposed by the gentleman from Illinois.

The CHAIRMAN. It seems to the Chair if the point of order is insisted upon that the amendment before the committee relates wholly to the admission of Arizona.

And it seems to the Chair that if the point of order is insisted on the point will be sustained.

Mr. BURKE of Pennsylvania. Mr. Chairman, it would have been very easy for me to move to strike out the last word and take the time, but I do not wish to do that. My suggestion, Mr. Chairman, is this: That under that act this district had 275,000 inhabitants. Two years later——

Mr. BOOHER. Mr. Chairman, I again make the point of order.

Mr. BURKE of Pennsylvania. The gentleman will not save any time by it.

The CHAIRMAN. The Chair sustains the point of order.

Mr. SHERLEY. Mr. Chairman, I move to strike out the last word. I do not desire to unnecessarily delay the committee, but if what I have to say is to be said at all, it will require more than five minutes. I therefore ask unanimous

consent to proceed for 15 minutes, but if the committee does not desire it, I shall not feel aggrieved.

Mr. CANNON. Is this upon the point of order?

Mr. SHERLEY. I am not speaking to a point of order. The gentleman from Pennsylvania [Mr. BURKE] has yielded the floor, and I have taken the floor in my own right.

Mr. CANNON. I was under a misapprehension. I did not understand that the gentleman from Pennsylvania had given up the floor.

Mr. SHERLEY. The gentleman is under a misapprehension.

Mr. BURKE of Pennsylvania. The Chair having ruled without having asked any discussion upon the point of order, I yielded the floor.

Mr. SHERLEY. I would like to have my request stated, Mr. Chairman.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent to proceed for 15 minutes. Is there objection?

Mr. WEDEMEYER. Mr. Chairman, reserving the right to object, I will say that I will not object to this, but I will object hereafter to any extensions.

Mr. FERRIS. That statement coming from a gentleman on the other side, and there being a decided opinion on this proposition, I do not think it would be fair to yield 15 minutes to a gentleman on one side with a notice served that they would not give an equal time on the other side.

Mr. SHERLEY. Fifteen minutes have been used on the other side. I have not spoken during general debate. However, it is with the committee. I do not care to attempt to say in five minutes what can not be said in that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky? [After a pause.] The Chair hears none. The gentleman from Kentucky [Mr. SHERLEY] is recognized.

Mr. SHERLEY. Mr. Chairman, the amendment offered by the gentleman from Illinois goes to the crux of the debate that has engaged the attention of the committee for a week. I am one of those who believe that if the constitution of Arizona contained a provision twice as drastic and far-reaching as the one it does contain in regard to the recall of the judiciary that that would not be a sufficient reason for this Congress to deny it statehood. [Applause.] The requirement of the Constitution that the United States shall guarantee to every State in this Union a republican form of government is not neglected in the admission of Arizona. I hold a republican form of government to be one whose creation springs from and whose continuation must rest upon the consent of those subject to its dominion. Judged by this rule, the form of government created by the people of Arizona is republican. But while I believe this, yet there is no man upon the floor who has a more pronounced objection to the recall of the judiciary than I have, and because I desire to answer the very pertinent question of the gentleman from California as to why a judge should not be recalled as well as any other official, I have taken the floor and the time of the committee. It is sometimes worth while to consider the purpose of government as well as its form, and that purpose should be not simply to execute the will of a majority, but to safeguard to any and all citizens those rights that the experience of mankind has demonstrated as essential to the enjoyment of real liberty. It is true that all power comes from the people, but it is equally true that all people loving and possessing real liberty, and history, to my mind, points not a single exception, have seen the wisdom in their calm moments of so restricting themselves in the exercise of that power as to prevent hasty and unfair action in their excited moments.

Every limitation you have in a written constitution, the very purpose of a written constitution itself, testifies to the need of the people limiting and restricting their power. We are told that whenever we question their exercise of power that we distrust them. I reply that they themselves in their wisdom have mistrusted themselves. And I suggest this fundamental thought, that the test of a government, the test of the institutions of a government, comes in the crises of its life and not in ordinary peaceful times.

When the people of some State have stood in a crisis, with hunger staring the great majority in the face, when they have stood in the crisis of bankruptcy, with debts so heavy that it seemed impossible to pay them, and under that test have exercised the recall with wisdom, then I am willing to believe that the people need not restrain themselves.

The distinguished gentleman from New York [Mr. LITTLETON] in his eloquent speech this morning said that, unfortunately, he could cite no history in justification of his view, because no nation had seen fit practically to exercise the recall of judges. It so happens that in my own State of Kentucky this issue, in its essence, was fought out amid the searching times and trying scenes of State bankruptcy, when the debtor class outnumbered the creditor class two to one; and the history of that fight, the history of the experience of those people, may well serve as a warning to the people of America against undertaking to make the judiciary by recall answerable to a majority.

But before I read that history let me say this to the House: The reason why the judge is not in the same attitude toward the public as other officials are is because by the very virtue of his office he is frequently the shield, and the only shield, of the minority of the community. You can test and judge the civilization of a people by the rights that are reserved by them to a minority, no matter how small it may be; and the mere numerical strength of a people can never give them a right, according to all the theories of American government, to take away certain rights of the individual.

Not only is that a reason, and to my mind a fundamental reason, but the judiciary is also charged with the high and important function of determining when the executive and legislative branches exceed their proper functions, and this right and duty is the highest contribution of the great statesmen of the Revolution to the science of government. It is the very capstone of the Constitution, without which all guaranties of the Constitution must be in danger whenever passion sways the body of the people. In that sense it is not the equal, but the superior of the other two branches, and to make it answerable to the people by a recall—for it is now truly answerable to the sober judgment of the people—to make it answerable to the temporary judgment of the people is to destroy absolutely the function that it is called upon to exercise, that function of judgment, and not simply of execution, of the majority will.

Now to refer to the bit of history: Kentucky chartered, during the years from 1817 to 1828, innumerable banks of issue, and through them was undertaken the old scheme of creating wealth by legislation instead of by labor. These banks issued bank notes and allowed credit without any regard to the property and the value that underlay the notes or the persons applying for credit. There came pay day, as there always will come pay day, and the people of that State awoke to find themselves bankrupt. What did they do? The debtors were in the majority. They elected men to the legislature who reflected their viewpoint, and the legislature passed replevin laws and execution laws, undertaking to prevent the collection of debts. Then what happened? The courts of the State of Kentucky declared those laws unconstitutional. And then what happened? The logic of events is wonderfully impressive. Why, this same majority that was represented by the legislature and that caused it to pass laws to relieve men of the payment of their debts undertook to remove the judges. Under the constitution, as it then existed, there lay a power of address to the governor, an address by two-thirds of the houses, for the removal of a judge. The repudiators controlled the majority of the legislature, but they could not get the two-thirds necessary to remove those judges by address. So they proceeded to abolish the court and with it the judges who had declared unconstitutional the laws that undertook to enable men to get out of the payment of their just debts. The court declined to be abolished, and held the act abolishing them and creating a new court of appeals unconstitutional; and there was thus presented the spectacle in the State of Kentucky of two courts of last resort.

The politics of that day resolved itself into a fight between the old court and the new court. In the meanwhile men were leaving Kentucky as if it were a place of pestilence. For every man who came into this then border State there were more than four going out of it. Everyone was in debt, everything was gloomy and forlorn.

But finally the people awoke to the realization that no community can ever sustain itself by repudiation of its honest debts. They upheld the old court party, they elected a legislature that repealed all the laws that had been passed by the new court party undertaking to change the judiciary, and the new court passed out of existence, and to-day its decisions are treated as a nullity.

I would like, if my brief time permitted, to further recite the history of this period to show the passion and animosity of a portion of the people inflamed by demagogic leaders against the judges whose only offenses were refusals to uphold laws making unnecessary the payment of just debts. But I can only hope that you will read the history of those 10 years of stirring times in the State of Kentucky, read the admirable summary in Sumner's Life of Jackson, and answer me, How long would a judge have sat upon the bench if there had been the power to recall him in those days when men's passion and their debts were controlling their reason and their judgment? [Applause.]

Those judges would have been recalled overnight, and the State of Kentucky would have been plunged into the mire of repudiation, and her history, glorious as it is, would have been checked for a generation. Any man here, in his calm, quiet moments, could properly arm himself without danger to society; but there is no man here of sense and intelligence but would refuse to carry a pistol, not because of the fear of himself during his calm moments, but because of the fear of himself under excitement and provocation. So the people in their calm moments would not abuse the right of recall. But the test of a people is in the crises of State and national life, even as the tests of men are in the personal crises of their lives. The times that try men's souls are the times that must determine the fitness of the recall. Under that test I say to you that the people may well keep from themselves that power for hasty, ill-conceived action, that will always carry with it the execution, not of the people's real will, but simply the immediate execution of the passions of the people.

The gentleman from Massachusetts [Mr. MCCALL] well called attention to the history of England. Englishmen began to have real liberty when they obtained a judiciary that was free and independent. The persecution of the British subjects came when the Crown had the right to recall the judiciary, and when the judge who did not do as the Crown desired lost his official position and usually lost with it his head, and a judge was put in his place who would be subservient. That is what the recall meant then. Under modern government it means that the temporary passions of the people may have expression rather than their sober judgment.

Mr. FERRIS. I wanted to interrupt the gentleman from Massachusetts when he made his comparison, but I hesitated to do so, and so I heard him through. Does the gentleman from Kentucky think it is fair to compare the recall of judges by the Crown with the recall of judges by the people?

Mr. SHERLEY. I answer the gentleman by saying that a good king——

Mr. FERRIS. There is none.

Mr. SHERLEY. I agree with the idea of the gentleman that underlies his answer, that society can not afford to put its government in the hands of any one man; and yet, using the term as it properly can be used, and not subject to any legitimate exception, a good king would not wrongly use such power. A people in their calmness will not wrongly use such power; but I say to you that the history of the world has shown that the people, like the individuals who compose the mass, under stress of excitement will do temporary wrong, wrong that they will regret as much as anyone in the world; and the whole purpose of government, the whole reason for every constitution that has ever been written, has been to give the people an opportunity to pause. Otherwise why the limitations? Why do you have the limitation that no one shall "be deprived of life, liberty, or property without due process of law"? Why any of the other amendments to the Constitution? If the people can under all circumstances always be relied upon to do the right thing, of what need is a constitution? Why, we spend half our time here determining not only what we ought to do, but what under the sovereign law of the Nation we can do. What a mistake, what a travesty it all is, if always the people can trust themselves. [Applause.]

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. LENROOT. Mr. Chairman, I have not thus far participated in this debate, and at this time I shall only make two observations. The first is that if the people of Arizona can not be trusted to determine this question of the recall of judges *for themselves*, they are not capable of self-government at all [applause], and ought not to be admitted into this Union. If they can not be trusted to determine that question, then they can not be trusted to determine any other question in their constitution. [Applause.]

Second, it has been said a great many times on this floor during this debate that the accountability of judges to the people by way of recall is something entirely new in government, an innovation in governmental affairs.

Mr. Chairman, I wish to read, for I do not believe it has been read on this floor in this debate, two sections from the constitution of the staid, old, conservative State of Massachusetts. Their constitution was adopted in 1780, and, so far as these provisions are concerned, they still remain in it and a part of the declaration of rights. The fifth section of the declaration reads as follows:

All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, judicial, are their substitutes and agents and are at all times accountable to them.

Section 8 reads as follows:

In order to prevent those who are vested with authority from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life, and to fill up vacant places by certain and regular elections and appointments.

Now, Mr. Chairman, the question of recall of judges is a debatable one. For myself, I should be unwilling to have the recall apply to the judges with the same facility, with the same low percentage, that I would see it applied to other officials of the Government.

But, Mr. Chairman, that is not a question for this Congress to decide; it is a question for the people of each State to decide for themselves. [Applause.]

Mr. Chairman, in listening to the very eloquent speech of the gentleman from New York [Mr. LITTLETON] to-day, and especially his peroration where he compared the people exercising the recall to the mob who crucified the Saviour, I felt that I should be sorry indeed to have anyone believe that the people of my congressional district or any other in settling such questions as this would act as a mob. So far as the people are concerned they are as intelligent, as patriotic, as law-abiding as any Member of this House. There is a distinction, Mr. Chairman, as wide as the wideness of the sea between the action of the mob and the action of the people of a State or a congressional district expressing their will in an orderly way under the provisions of law, going to the polls and registering their will as to the kind of government they shall have, and who shall represent them, whether it be with reference to judicial, administrative, or legislative officials.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CANNON. Mr. Chairman, I did not intend to say a word during this debate. I have listened with much pleasure and something of profit to the debate on the pending bill. I shall not address myself in the five minutes I have to the initiative and referendum. I shall vote for the proposed amendment offered by the gentleman from Illinois [Mr. MANN].

It is a little trite, perhaps, and yet a matter not fully understood by many people, that ours is not a direct democracy, but is a representative government, controlled by the people through the ballot at frequent elections held under the law. I see no danger to the public welfare in keeping it a representative government. No State, I believe, elects a governor for a longer term than four years. The popular body of the respective State legislatures is usually elected for two years and the senate for four years. One-third of the Senate of the United States goes out of office every two years, and the body changes completely in six years, as provided under the Constitution and the laws. The House of Representatives of the United States changes every two years. I do not believe it would be politic to have a recall for Members of Congress or members of the State legislatures or for governors or judges. If there be misdemeanor or crime upon the part of the individual Representative or Senator, there can be an expulsion, and if he commit a crime he is subject to the penalty of the law, the same as other citizens.

If the sound popular sentiment, or sometimes the unsound popular sentiment, of a district or State demands that a new Representative or Senator should be chosen, the people speak by a majority at the ballot box. Then there may be impeachment of judges and impeachment of officials, as provided in the Constitution of the United States and by the constitutions of the several States.

The question, however, that comes directly to us in the consideration of this bill is whether we shall approve the constitution of Arizona, which provides for the recall of judges on the demand of one-fourth of the voters of the proposed State. As to New Mexico, I will content myself merely with saying that I believe New Mexico should be admitted, and that within the past three months the House of Representatives unanimously so decided. But here is a bill that practically provides that New Mexico shall be kept out until Arizona comes in. That is the real question. You propose practically that Arizona shall come in with the recall of judges of the courts in her constitution. The Constitution of the United States provides that the United States shall guarantee to every State a government republican in form. I take it that means also in substance as well as in form.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KAHN. Mr. Chairman, I ask unanimous consent that the time of the gentleman be extended for 10 minutes.

The CHAIRMAN. Is there objection?

Mr. FLOOD of Virginia. Mr. Chairman, I shall not object, but I desire to say that while I am not going to object to any extension of time for the distinguished gentleman from Illinois, we have had seven days of debate on this amendment, and

hereafter I shall object to any extension of time upon the part of anyone.

The CHAIRMAN. The Chair hears no objection, and the gentleman is recognized for 10 minutes.

Mr. CANNON. Mr. Chairman, gentlemen have said on both sides of the House that when a State is once in the Union it can adopt any kind of an amendment to its constitution that it may desire, including a provision for the recall of judges. I respectfully dissent from that proposition.

Mr. HAMILTON of Michigan. So long as it is not unrepublican in form.

Mr. CANNON. What is "republican in form"? In my judgment a constitution or law of a State that provides for a direct government by a democracy as against a representative government by the people is not a "republican government in form." Some years ago we admitted the State of Utah with a solemn statement in the enabling act that Utah never should amend her constitution so as to legalize polygamy. Now, then, how would you enforce such a contract? If Utah can not amend her constitution legalizing polygamy, Idaho and Wyoming or any other State, and Arizona and New Mexico, if they are admitted as States, can not change their constitutions by adopting an amendment legalizing polygamy. Is there any Member of this House that will rise in his place and say that the United States is powerless, in the event any State should amend its constitution legalizing polygamy, to nullify that constitution by virtue of the constitutional power in the United States to guarantee each State a government republican in form? I pause for an answer. No man disputes the power of the United States in the premises. I may go further and say it is the duty of the United States in such case to enforce the guaranty of the Constitution of the United States. Let me put another case which perhaps you will say is an extreme case. If any State should provide that the governor should hold his office for life and that his oldest son or daughter should succeed him for life, would the United States be powerless to nullify that amended constitution?

Mr. GRAHAM. Will the gentleman yield?

Mr. CANNON. I only have 10 minutes. No man would question the right of the United States to exercise the power and the propriety of its exercising the power to nullify that amended constitution. The courts of the United States and the courts of the respective States construe the law and apply it to each case so as to protect each citizen in his liberty, his life, and his property. They should perform their function without fear, favor, or affection. If the judge is corrupt, he is subject to impeachment and removal from office. The judge should be, and usually is, able and courageous, and be it said to the credit of the judiciary they have both of these qualities, and these qualities are essential for the protection of all the people under all conditions, from the mob on the one hand and the plutocrat on the other.

To the Member from California [Mr. STEPHENS], who proclaims himself as one of "the plain people," I will say that he and every other man who belongs to the plain people—and I am tolerably plain myself—is more interested in preserving the integrity, the manhood, and the courage of the judiciary than those who have great fortunes. [Applause.] Therefore I am going to vote against this bill, for the reason that it places it expressly within the power of Arizona to adopt a constitution with a provision for a recall of judges, and that, too, on the petition of one-fourth of the voters of the State or district. [Applause.]

Mr. RAKER. Will the gentleman yield?

Mr. CANNON. I would prefer not, unless I can have additional time.

Mr. Speaker, the judge should not be subject to the threat of the strong or the cry of the mob armed with the bludgeon, called the recall, to avoid which he must make the will of one or the other the judgment of the court.

The courts in the history of the Republic have performed their functions in harmony with the law and the Constitution. Allow me to give you an instance of great importance.

In the settlement of the country across the continent transportation of persons and products became a necessity. The cry was for the construction of railways. To secure the same nearly all the States, by legislation, gave 99-year charters—many of them perpetual charters—to railway corporations, with full power to fix the charges for transportation of persons and products.

The rates fixed by the railways in many instances were exorbitant. It was claimed that the railways, by virtue of the franchise, had a vested right to fix the charge. It was conceded generally by the lawyers, harking back to the Dartmouth College case and a long line of precedents, that the claim of the railways was valid.

But when the case was presented to the courts they held that while the railways were private property, they were also public utilities, and that their charge for service must be reasonable.

I am not afraid of the courts. But, gentlemen, if I were to discuss this matter from a political standpoint—which I am not doing now—I would say that I wish the House of Representatives were elected once in four years. I wish the President were elected once in eight years, because, looking in your faces and casting my glance inward—and I am not saying that I am better than you or much worse than you—you know that when you go back to your close districts every two years you find that not only corporations, but men who proclaim themselves the friends of the plain people, are good for more votes, or claim to be, in your districts than you like to acknowledge, and they put you under a threat that they will bring their organization, whatever it may be, religious or secular, to the defeat of Members that do not take orders. You may say a man who would take orders from anyone is not worthy to hold a seat here. Oh, gentlemen, the human animal is a practical animal, and when somebody is making war on a Member of Congress out in his district, first for the nomination, then for an election, there is a temptation to respond to the demand that is made. When some wild-eyed sand-lotter in former years in San Francisco was carrying on a great movement against immigration, not only to restrict, but to entirely exclude, I have seen some California Representatives turn double somersaults in order to respond to a temporary demand. [Applause and laughter.] Of course, my friend from California [Mr. STEPHENS] has no feeling of that kind. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. FLOOD of Virginia. Mr. Chairman, I move that the debate on the paragraph and all amendments thereto be closed in 15 minutes.

The CHAIRMAN. The gentleman from Virginia [Mr. FLOOD] moves the debate on this paragraph and all amendments thereto close in 15 minutes.

The motion was agreed to.

Mr. KONIG. Mr. Chairman, I move to strike out the last word in the amendment. I will not make any apology for violating the much-violated custom of this House prohibiting new Members from speaking during the first session of Congress which they attend, but being deeply interested in the question now before this committee, namely, the admission into the Union of New Mexico and Arizona, I must give my views on the subject. These Territories come to us with constitutions embodying matters which, if I were asked and had the power to insert in the constitution of the ancient and honorable State of Maryland, I would refuse to do it. But, Mr. Chairman, Arizona, in making its constitution, did not make it to govern Massachusetts or Connecticut. It drafted it with one purpose, and one purpose only, namely, to govern the people of the Territory of Arizona. If they have made a mistake, they will soon discover it and correct it, and, anyway, my friends, it is Arizona's funeral, not ours. The friends of the recall tell us that there is no danger in a recall, because the people can always be trusted. Firm believer that I am in the people, knowing after sound and sober second thought that the people will come to a right conclusion, yet I believe that in particular cases they often can and do go wrong. Like the individual who places his belongings in some secure place, where he can not reach them to satisfy every passing passion and fancy, I believe that the public should place checks on itself so that it may not be carried away with every fancy of the hour.

I suppose I shall vote wrong while I am in Congress. I presume that a good many of you gentlemen have voted wrong. And, after all, who are the people but Tom Jones and Bill Brown and you and me, my friends? That being so, if we have voted wrong, why can not the people in the several States of this Union vote wrong? It is a well-known fact that the statesman gives the people what they ought to have; the politician gives them what they want. Look out, therefore, my friends, lest ye make a politician out of the judge.

My conception of the thing is that a judge should be a judge of the law and the facts, and nothing else. We should put him as far above the clamoring mob as we put him above the purchasing power of the capitalist. As I said before, the people are ofttimes wrong, and the best illustration I can give of that is the last national election. In that election the people of the great Commonwealth of Pennsylvania voted to uphold and maintain the Payne-Aldrich tariff law, and it was a majority of the people of Pennsylvania that voted for the law as it now

stands, while the people of the great Empire State of New York voted to repudiate, to strike out forever and a day after, that same Payne-Aldrich tariff law, and that was the great majority of the people of the Empire State. One or the other was wrong, and whichever was wrong, it was a majority. [Applause on the Democratic side.]

The CHAIRMAN. The time of the gentleman has expired. The gentleman from Minnesota [Mr. LINDBERGH] is recognized.

Mr. LINDBERGH. Mr. Chairman——

Mr. KONIG. If the gentleman is looking for something about the principles laid down by the late Republican leader, Theodore Roosevelt, on the question whether marriage was a failure, race suicide, or the broken promises of the Republican Party, I will answer him; otherwise my time is too precious. I shall vote, Mr. Chairman, for the admission of both New Mexico and Arizona. [Applause and laughter on the Democratic side.]

The CHAIRMAN. The time of the gentleman has expired. The gentleman from Minnesota is recognized. The gentleman from Maryland will come to order. The committee will be in order. The gentleman from Minnesota will proceed.

Mr. LINDBERGH. Mr. Chairman, during the discussions in this debate, if one were to give full credit to many of the speakers, it could be easily inferred that the courts of this country are crowded with judges who would be intimidated if we had the law of recall. There can be no other inference from some of the remarks made, and the same speakers seem to consider the people in the light of a mob.

The assumption that judges are moral cowards that would violate the oaths of office is not justified; neither is there justification in assuming that the people exercising the right of recall would do so in the spirit of a mob.

It might be wise to provide that the recall of judges, more than other officials, should be surrounded with longer time for public deliberation before the recall was actually made, but that would be a question for the people in their good judgment. That is a matter of detail not going to the question of the policy of recall.

The whole question is one of whether the people shall be brought in closer relation with the actual administration of the Government.

There is a difference between a government limited as by the Federal Constitution and a people's or popular government run by popular choice. I make that distinction in order that my few statements may not be misunderstood.

The United States is not, within strict interpretation, a people's or popular government, but is a constitutional government. The United States may be said to be governed by the people except where the Constitution represses. That instrument does limit the majority. It makes no difference that originally the people, through their servants, framed the Constitution. Those who did that have long since gone and are no longer the people. They left posterity an instrument that limits in several respects the privilege of majority rule.

The only time that this country was in a position to be governed by the people was the period of 12 years between the Declaration of Independence and the adoption of the Constitution. Since that time it clearly appears, by interpretation of the courts enforced by judicial decrees, that the people are not entirely in possession nor control of their own Government. In one respect it would require unanimous consent, or practically so, to change the Constitution. For instance:

> No State, without its consent, shall be deprived of its equal suffrage in the Senate.

The State of New York, with near 10,000,000 people, has no greater representation in the Senate than the State of Nevada, with a population of 81,000; that is, one person in Nevada has a representation in the Senate equal to 123 in New York. Even if all the other States should decide by unanimous vote that each State should have a representation in the Senate in proportion to population, such a decision could be nullified by a majority of the State of Nevada. There would be no way to overcome that except by revolution. There are many cases in which the Constitution prevents the people by majority to rule, the most conspicuous being the manner required to amend the Constitution itself.

The Constitution is a great instrument, and has been looked upon as evidence of the profound wisdom of its authors. The good faith and great foresight of its founders is not questioned. It must not be overlooked, however, that the Constitution was a compromise. Some of its provisions were placed there to meet certain emergencies existent at the time of its adoption, and not because in themselves they were preferred. In fact, they were, some of them, most strenuously opposed. The colonies were weak and had to compromise their differences, resulting in some provisions that have later repressed the people.

I have no sympathy with all this talk about the sacredness of old instruments of government, regardless of their fitness for this generation and the future. We can not progress and at the same time follow cumbersome old forms that really block progress. All rules made in the past that are suited, let us keep as long as experience shows them suited to present necessities, but whenever experience shows the need of change, let no fetish reverence for the past methods repress the present and future necessities.

My respect for government rests primarily in the ability of the people to conduct it. Succeeding generations should be better able to master the problem of their own than the people of earlier generations could do it for them. Each generation should conduct the affairs of its own times, and when a majority rules that can be done. So much of the past as is worth while would naturally be adopted. Now, since we have our growth principally in our native born, I do not believe we should be tied up with constitutional limitations that will prevent a majority from changing the Constitution and making such laws and regulations as shall seem best.

We can imagine wrongs that a majority could, if it would, do to a minority, but I am not with those who anticipate that the majority will be less just than a minority. We suppose this to be a government by the people, and I am willing to trust it as such. My votes, so far as I am able to cast them, will give the fullest credit to that purpose.

The objection that is pressed the hardest by some to the proposed constitution of Arizona is the provision for the recall of judges. Some have worked up their imaginations to the extent of believing that excitements might and probably would sometime arise and carry in their waves the recall of judges. It is believed by them that the people would go through all the forms required for the recall of judges who had decided cases in accordance with law. Those who carry prejudices of that nature are more considerate of the individual than of the public. Even suppose it happened several times in a century, which is not likely, the fact of the recall would not reverse the cases. They would stand as they had been decided. If the decisions were wrong, the recall would not be wholly unmerited. As things are now a judge can not be removed except by impeachment, which, except under the most extraordinary circumstances, is impractical.

It is well known that with responsibility comes caution. The recall would make people cautious in the exercise of the right. The very fact that we had the law of the recall would create a steadiness of purpose and feeling of responsibility in the people that would far outweigh indiscretions that might possibly occur.

It is odd that those who oppose the purposes of securing the nearest we can to popular government should assume mistakes by the people, while they give no excuse for the innumerable mistakes of the courts. I refer you to the findings of the courts for the most contradictory decisions imaginable. In nearly all of several thousand volumes of reports of decisions in this country, you will, on examination, find that the courts have overruled, reversed, and revised the decisions of judges so often that no one can say what the law is. Everyone is presumed to know the law and yet no one does know the law.

The legal procedure would not be more simplified by the recall, but it would impress judges with the fact that they should consider the side of the public with as much care as they do the side of the individual. There is an old saying that what is everybody's business is nobody's business, and it seems that in the interpretation of constitutions and statutes it has often been nobody's business to keep the interpretation consistent with a common national purpose. The judges should keep a little closer to the people, and with the law of recall it is quite likely they will—not that they should be unfair to individuals, for that would not be serving the public's best interest. The public is most interested in keeping private rights consistent. The public is most interested in preserving private rights—for the public is merely an aggregation of individuals—but the public is opposed to special favors to individuals.

I do not, of course, think it practicable for the public in general to enter into all the intricacies of the law; but the people are fair and will treat those whom they trust with that duty with great consideration and respect, and the law of recall will furnish a moral influence that will be of inestimable value to the common interests of the country.

Whenever we generally establish laws for the initiative, the referendum, and the recall to apply to all matters that pertain to the public interest, in connection with the administration of the affairs of the people in common, we shall find the responsibility accepted and dealt with by the public in such manner as will make it much easier for public officials to do their duty

unincumbered by the influence of special interests. Get the great office-holding body of this country to understand that they owe their places to the public, that instead of being interested in the public just before each election they are to be interested all the time, and it will make everybody independent to do what seems best.

Mr. FLOOD of Virginia. Mr. Chairman, I hope this amendment will be voted down. It represents the views of the minority of the Committee on Territories. It leaves the initiative and referendum untouched in the Arizona constitution. It leaves the recall of all officers, except judges, untouched. Its real purpose is to keep Arizona out of the Union. It proposes to submit to the people of Arizona an amendment to be voted on, but these gentlemen tell them exactly how they must vote. Unless they vote as they say, they shall not come into this Union. It is unfair and unjust. The real purpose is to deny statehood to Arizona, and I hope every gentleman here will vote against it. [Applause.]

I ask for a vote, Mr. Chairman. [Applause.]

The CHAIRMAN. If there be no objection, the pro forma amendment will be withdrawn. The question recurs upon the amendment proposed by the gentleman from Illinois [Mr. MANN].

The question being taken, on a division (demanded by Mr. MANN) there were—ayes 50, noes 142.

Accordingly the amendment was rejected.

The Clerk read as follows:

That the Territories of New Mexico and Arizona are hereby admitted into the Union upon an equal footing with the original States, in accordance with the terms of the enabling act approved June 20, 1910, upon the terms and conditions hereinafter set forth. The admission herein provided for shall take effect upon the proclamation of the President of the United States, when the conditions explicitly set forth in this joint resolution shall have been complied with, which proclamation shall issue at the earliest practicable time after the results of the election herein provided for shall have been certified to the President, and also after evidence shall have been submitted to him of the compliance with the terms and conditions of this resolution.

The President is authorized and directed to certify the adoption of this resolution to the governor of each Territory as soon as practicable after the adoption hereof, and each of said governors shall issue his proclamation for the holding of the first general election as provided for in the constitutions, respectively, heretofore adopted by each Territory, and for the submission to a vote of the electors of said Territories of the amendments of the constitutions of said proposed States, respectively, herein set forth in accordance with the terms and conditions of this joint resolution. The results of said elections shall be certified to the President by the governor of each of said Territories; and if the terms and conditions of this joint resolution shall have been complied with, the proclamation shall immediately issue by the President announcing the result of said elections so ascertained, and upon the issuance of said proclamation the proposed State or States so complying shall be deemed admitted by Congress into the Union upon an equal footing with the other States.

Mr. FLOOD of Virginia. Mr. Chairman, I offer the following amendment.

Mr. MANN. I will suggest to the gentleman that this is not the proper time to offer it.

The CHAIRMAN. The Chair will state to the gentleman from Virginia that, as heretofore stated by the Chair in response to a parliamentary inquiry, the substitute will be treated as one entire amendment, and amendments will not be in order until the Clerk shall have completed the reading of the substitute.

The Clerk resumed and completed the reading of the substitute.

Mr. FLOOD of Virginia. Mr. Chairman, I offer the amendment which I send to the Clerk's desk. This is a committee amendment, and there are two other committee amendments, one to be offered by the gentleman from Colorado [Mr. MARTIN] and the other by the gentleman from Tennessee [Mr. HOUSTON].

The CHAIRMAN. The gentleman from Virginia offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 3, line 23, after the words "in the," strike out the words "constitution, respectively, heretofore adopted by each Territory," and insert in lieu thereof the words "constitution of New Mexico heretofore adopted and the election ordinance No. 2 adopted by the constitutional convention of Arizona, respectively," so as to make the clause read:

"The President is authorized and directed to certify the adoption of this resolution to the governor of each Territory as soon as practicable after the adoption hereof, and each of said governors shall issue his proclamation for the holding of the first general election as provided for in the constitution of New Mexico heretofore adopted and the election ordinance No. 2 adopted by the constitutional convention of Arizona, respectively, and for the submission to a vote of the electors of said Territories of the amendments of the constitutions of said proposed States, respectively, herein set forth in accordance with the terms and conditions of this joint resolution. The results of said elections shall be certified to the President by the governor of each of said Territories; and if the terms and conditions of this joint resolution shall have been complied with, the proclamation shall immediately issue by the President announcing the result of said elections so ascertained, and upon the issuance of said proclamation the proposed State or States so complying shall be deemed admitted by Congress into the Union upon an equal footing with the other States."

The CHAIRMAN. The question is on the amendment.

Mr. FLOOD of Virginia. Mr. Chairman, the purpose of this amendment is to make this joint resolution conform to the facts. In New Mexico the provision was made in the constitution. In Arizona it was made in an ordinance known as ordinance No. 2. When the resolution was framed by the committee, we did not observe that there was that difference in these two constitutions. We want to make the resolution conform to what took place in New Mexico, and also to what took place in Arizona.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. FLOOD].

The question being taken, the amendment was agreed to.

Mr. HOUSTON. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk.

The Clerk read as follows:

On page 5, line 11, after the word "Spanish," insert the words "when newspapers in both of said languages are published in said counties."

Mr. HOUSTON. Mr. Chairman, the object of this amendment is that if there happens to be no newspaper published in both languages there would be no need of it.

Mr. BUCHANAN. Mr. Chairman, I move to strike out the last word.

Mr. MANN. Mr. Chairman, a motion to strike out the last word is not in order, it being an amendment in the third degree.

The CHAIRMAN. An amendment to strike out the last word would be in the third degree, and under the rule would not be in order. The gentleman will be recognized in favor or against the amendment.

Mr. BUCHANAN. Mr. Chairman, I have no apology to make for being a new Member and addressing the House. First, I believe a new Member has the same right to the floor as the older Members, and, secondly, I wish to state that it is not through choice that I am a new Member, for I made two previous efforts that were unsuccessful. [Laughter.] In regard to the question before the House at this time, I wish to say in reply to the gentlemen on both sides of the House who oppose the initiative, referendum, and recall, and who evidently fear leaving the Government in the hands of the people, I probably have been in a position to know as well, if not better, what the sentiments of the people of this country are than most any other Member of the House. I have within the last 12 months worked at my trade and otherwise associated with the intelligent workingmen, who have been discussing judges and the decisions they have rendered, and have come to the conclusion that if there is any official there is more need of the people having the power to recall than another it is the judge.

I wish to insert here an editorial written by Louis F. Post, the editor of the Public, one of the ablest and most fearless writers on the question of the initiative, referendum, and recall. This expresses my position on the question:

If the recall may properly apply to legislative representatives, who make laws, and to administrative representatives, who execute laws, by what process of reasoning shall we conclude that it must not apply to judicial representatives, who nullify laws?

President Taft is opposed to this application of the recall, but he gives no reason for distinguishing it from legislative or administrative applications, and the inference from his record and toryistic cast of mind is that he doesn't wish to. Being against the recall in every application, he merely submits for the moment to overwhelming public opinion in respect of its other applications in order the more efficiently to resist its application to judges, a use of it which has but recently come under discussion. Lacking those gymnastic mental qualities that permit his agile predecessor to advocate the recall of judges for California while opposing it for Arizona, President Taft takes positive ground against it as a principle for all places.

That it would deprive judges of dignity is one of his objections. This objection would have applied to abolishing the King's veto, which, as Mr. Asquith says, is now "as dead as Queen Anne"; and it is a very appropriate objection for the additional reason that autocratic prerogatives of aforetime British kings are asserted by the American judiciary. Not alone do our judges veto laws; through their equity jurisdiction they make laws. It is for this double power, as well as the dignity of judges, that Mr. Taft contends in his denunciation of the recall for judges. Like the great privileged interests whom he most directly represents, he finds that privilege can endure the initiative and the referendum, which affect legislation alone, and a recall that would affect administrators and legislators only, provided the judiciary remains untrammeled in its power over both administration and legislation.

Gov. Wilson, however, is not to be counted among those who oppose the judicial recall from toryistic motives. This exception is allowed not because Gov. Wilson is a Democrat, nor because he seems to be democratic, nor because, unlike Mr. Taft, he has come out for people's power in respect of such electoral mechanism as direct primaries, direct election of Senators, the initiative and referendum and the recall except for judges. From an opponent once of the initiative and referendum, Gov. Wilson has come to be one of its most effective advocates, and for right reasons. When opposing it as an author several years ago, he had not grasped the point that the initiative and referendum is not a substitute, but a palladium, for representative government. Believing now with all the rest of us who advocate the initiative and referendum, that when this reform is once in full opera-

tion it will be seldom used—probably never except on great and burning fundamental issues—because legislatures will then be as keen to represent the people as they now are to represent marauding interests, Gov. Wilson frankly declares his change of opinion. But what he does not yet appear to see is that the reason for the recall for judges is the same as the reason for its application to other representatives of the people. Indeed, he has distinctly put his objection on the ground that judges are not lawmakers, but only apply the law to individual cases. If judges did determine only individual disputes, Gov. Wilson's opposition would be quite unobjectionable. But our judges have built up a judicial system under which they exercise the kingly power of making laws at their own will by decree, of repealing statutes as unconstitutional, and of controlling administrative authority. Not as administrators of justice in private quarrels, then, is it that judges must be subjected to the recall, but because they have usurped legislative power, administrative power, and people's power in respect of the laws of the land. As in Great Britain, the King's lawmaking decree and his lawbreaking veto are as dead as Queen Anne, so must it be in this country with the judicial usurpation of making law and breaking law. When that is done, no recall for judges will be needed; until it is done, the recall of judges will be as necessary, logically and in fact, for the defense of democracy against plutocracy as any other application of the recall.

An impartial administration of justice is about all there is to a free government. It is the just administration of the law that holds the community together. It is the courts that all must go to for the protection of their liberty, person, and reputation.

The judicial department is a department in which the people are more concerned than in any other. It is the department which comes home to them and deals with them in all the relations of life, from their birth to their death, and with their heirs and estates after death.

Abraham Lincoln said, in a speech at Cincinnati, September 17, 1859:

The people of these United States are the rightful masters of both congresses and courts; not to overthrow the Constitution, but to overthrow the men who pervert the Constitution.

What would that great emancipator say if he lived at this age and witnessed the judges perverting the Constitution, as in the case of the income-tax law, where the verdict was rendered by one judge turning a double somersault overnight and reversing himself, and other judges rendering injunctions prohibiting the workingman from exercising his constitutional rights—freedom of speech and of the press—to please big business interests and industrial pirates? That great commoner would have raised his voice in protest against such methods of forcing industrial slavery.

Thomas Jefferson said:

The germ of dissolution of our Federal Government is in the judiciary, an irresponsible body working like gravity day by day and by night, gaining a little to-day, and gaining a little to-morrow, and advancing its noiseless step like a thief over the fields of jurisdiction until all shall be usurped.

And again he said:

If we ever lose our liberties, it will be through the action of our Federal judiciary, who, with a life tenure of office, will feel themselves the law and construe away the dearest rights of the people.

It is my opinion that if a revolution occurs in this country in the future (which I hope will never be necessary to protect the people's rights) it will be due to the arbitrary usurpation of power by the judges.

In an article written by Hon. Henry Clay Caldwell, former United States circuit judge, presiding judge of the United States circuit court of appeals for the eighth circuit, he said:

It is an interesting historical fact that despotic power and official oppression received its first check in the Colonies at the hands of a New York jury. The blow was a staggering one. It was the entering wedge to freedom, which later was driven home. William Crosby was the governor of New York in 1734. In the administration of his office he was unscrupulous, avaricious, and arbitrary. The New York Journal, a paper established to defend the cause of liberty against arbitrary power, exposed his official corruption and oppression. For this its publisher, John Peter Zenger—may his tribe increase—was thrown into prison and a criminal information filed against him by the attorney general for libeling the governor and other colonial officers. History tells us the case excited intense interest, not in New York only, but in other Colonies, for it involved the vital issue of the liberty of speech and of the press, without which the people of the Colony could not hope to be free. The case was brought on for trial before Chief Justice De Lancey, whose first act was to disbar Zenger's counsel for questioning the validity of the judge's commission. Zenger's friends then sent to Philadelphia for Andrew Hamilton, one of the foremost lawyers of his time, who came on to New York to defend him. Zenger entered a plea of not guilty, admitted the publication of the alleged libel, and justified it by asserting its truth. A jury was impaneled to try the case. The chief justice refused to permit the defendant to prove the truth of the publication and charged the jury that it was libelous, and that it was their duty to return a verdict of guilty. The jury retired and soon returned with a verdict of not guilty. The verdict electrified the country. Gouverneur Morris, one of the ablest and most sagacious statesmen of the Revolutionary period, dated American liberty not from the Stamp Act of 1765, nor yet from the "Boston Tea Party," but from the verdict of the jury in Zenger's case.

The rendition of this verdict constituted the immortalizing moment of those men's lives and is the richest heritage of their descendants. If the names of these 12 patriots were at hand, they would appear here. Their names should go down in history with the foremost patriots of the Revolution. This historic incident would not be complete without adding that the people bore Zenger's lawyer, Hamilton, out of the court room on their shoulders and that the common council of New York gave him the freedom of the city in a gold box for his gratuitous services in defense of the rights of mankind and the liberty of the press.

The jury's verdict in the above case was clearly a verdict of the great masses of the people, because it was a popular verdict, and the people can always be trusted to render just and wise verdicts. The framers of the Declaration of Independence proclaimed that one of their chief grievances was that they were denied their right of trial by jury, and the judges of to-day are invading guaranteed rights by usurping power, issuing injunctions in conflict with the Constitution, and rendering unjust decisions, thereby denying the poor men their right of trial by jury and permitting industrial highbinders to exploit the wage-workers.

I have had a wide acquaintance with the lawyers, and among them I have some very good friends, and in my opinion they are very generally high-minded and public-spirited citizens. I regret that about all the opposition to the initiative and referendum and recall comes from the legal fraternity. The corporation lawyers, it seems, almost without exception, are opposed to these reforms, and especially to the recall of judges, which will cause further doubt of their sincerity of purpose and further strengthen the opinion that is now prevalent among the people that they have drawn their convictions from the same place that they have their emoluments.

The gentlemen here who have so fluently opposed the initiative, referendum, and recall have spent much of their time in the defense and commendation of judges and in telling us about the danger of the mob (people), but have been conspicuously silent in their praises of the people, who, in the end, will be the final and supreme judge of the conduct of all public men. The people will never permit themselves to be misled into giving up that right that our Revolutionary fathers fought and bled for—the right of self-government. Plutocracy has the most brilliant and intellectual agents that money can buy. They speak of Cæsar, Demosthenes, Plato, and Aristides. They quote from orators, philosophers, logicians, and statesmen; they read from the Bible, and legends of old. They describe the beauties of the flag and how it unfurls its folds in the breezes. They take their chances at deluding the people with flowery oratory and words of praise, which for so long a time has characterized their deceit; but to them I give a word of warning. I remind them that the people have borne their loss in the past and have been good and courageous losers. But now, sirs, they are fighting with the ballots of the many against the capital of the select few, and you will find yourselves, on the eve of what you had hoped would be your victory, crushed by the will of the masses, and once more that which you would claim your own will revert to its rightful owner, and the people will have triumphed.

I am in favor of this joint resolution to admit Arizona and New Mexico into the Union as States, and congratulate the people of Arizona in reserving to the electorate the power of recall to all elective officers, including the judges.

A good, honest judge, who exercises his functions efficiently and conscientiously, need not fear the recall. Such a judge can not remain too long on the bench. A month, however, is too long a term for an inefficient, dishonest judge; and for this reason the recall should not only apply to elective judges, but to the Federal judges who are appointed also.

The judges appointed by the President to the bench are usually attorneys of great ability. Their ability has generally resulted in their employment, sometime in their career, by special privileged corporations, which are able to pay the highest prices for legal service. The minds of such men tend to become warped in favor of special privileges, which they formerly represented. Elevation to the bench does not free them of their prejudice, and if their prejudices should prevent them from rendering justice to the public, the electorate should have the right to recall them.

Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois? [After a pause.] The Chair hears none. The question is now on the amendment offered by the gentleman from Tennessee.

The question was taken, and the amendment was agreed to.

Mr. MARTIN of Colorado. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

On page 7, at the end of section 4 of the proposed article 19, in line 19, add the following:

"SEC. 5. The provisions of section 1 of this article shall not be changed, altered, or abrogated in any manner, except through a general convention called to revise this constitution as herein provided."

Mr. MARTIN of Colorado. Mr. Chairman, the amendment which I have offered is the identical section 5 of article 19 of

the constitution of New Mexico on amendments. That section provides that section 1 of article 19, which provides the method of submitting and ratifying amendments, shall only be amended through the medium of a constitutional convention, as provided for in section 2. At first blush the committee did not think it fair, in case the people of New Mexico should adopt the substitute submitted to them, to tie that section up in the manner in which it was tied up in this article, but subsequent reflection has developed the fact that that is the only method by which we can safeguard the special provisions as to ratification provided in the articles on education and elective franchise. In other words, unless we insert section 5 of the article on amendments as it stands in the New Mexico constitution, if our substitute should be adopted, the first New Mexico Legislature could submit an amendment to section 1 of article 19 eliminating or dropping the proviso which carries the safeguards on education and elective franchise, and that amendment could be adopted by a majority of the people voting thereon. It is therefore necessary, in order to safeguard the proviso and those sections of the articles on education and elective franchise as now provided for in the constitution, to continue this section 5, and that is the purpose of the amendment and the end that will be effected by it.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Colorado.

The question was taken, and the amendment was agreed to.

Mr. MANN. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend the substitute, page 3, line 6, by striking out all of sections 1, 2, 3, 4, and 5 and inserting in lieu thereof the following:

"That the constitution formed by the constitutional convention of the Territory of New Mexico, elected in accordance with the terms of the act of Congress entitled 'An act to enable the people of New Mexico to form a constitution and State government and be admitted into the Union on an equal footing with the original States, and so forth,' approved June 20, A. D. 1910, which said constitutional convention met at Santa Fe, N. Mex., on the 3d day of October, A. D. 1910, and adjourned November 21, A. D. 1910, and which constitution was subsequently ratified and adopted by the duly qualified electors of the Territory of New Mexico, at an election held according to law on the 21st day of January, A. D. 1911, being republican in form, and not repugnant to the Constitution of the United States and the principles of the Declaration of Independence, and complying with the terms of said enabling act, be, and the same is hereby, approved, subject to the terms and conditions of the joint resolution entitled 'Joint resolution reaffirming the boundary line between Texas and the Territory of New Mexico,' approved on the 16th day of February, A. D. 1911."

Mr. MANN. Mr. Chairman, the amendment which I have offered is to approve the constitution of New Mexico adopted by the constitutional convention of that Territory. If that amendment be agreed to and be enacted into law, the result is to at once make New Mexico a State without further proceedings on the part of Congress. The enabling act provided that either of these Territories should be admitted if the constitution to be adopted should be approved by the President and by Congress, or, for that matter, if it should be approved by the President and not disapproved by Congress at the next regular session. The proposition offered by the majority in their substitute resolution is to admit New Mexico when and after she has voted upon an amendment to her constitution. In one breath they say that we have no moral right to say what shall be in the constitution of these Territories, and in the next breath they refuse to accept the constitution which has already been adopted by New Mexico. If the gentlemen on the other side of the aisle in good faith believe that Congress ought not to scan the constitution of a proposed State except that it be republican in form, then there is nothing left for them to do but to approve the constitution as New Mexico has adopted it and let the Territory into the Union as a State. [Applause on the Republican side.] This same resolution was the resolution first introduced by the distinguished gentleman from Virginia [Mr. FLOOD], the chairman of the Committee on the Territories. It is the same resolution which passed unanimously in the closing days of the last session of Congress.

Mr. COX of Indiana. But the House was so busy it could not consider it.

Mr. MANN. The House was not so busy but it gave consideration and debate to this proposition, led on that side of the House by the distinguished gentleman from Missouri [Mr. LLOYD], and it received the approval of both Democrats and Republicans in this House. If we have no jurisdiction, as claimed by my friends on the left side of the aisle here, except to say that the constitution is republican in form, then let us say it, because we on this side of the aisle are prepared now, without further delay, to admit New Mexico as a State into the Union. [Applause on the Republican side.]

I do not think it is necessary in order to determine whether we admit these two States that you determine what their politics is or will be. I am willing to vote in reference to the admission of a Territory as a State when it has reached the point where it is entitled to have consideration, regardless of its politics or its partisanship or its future political representation, either in this body or in the body at the other end of the Capitol. [Applause.] And you gentlemen who refuse to vote to admit New Mexico now by approving the constitution, I do not think show the best of faith in the matter. [Applause.]

Mr. FLOOD of Virginia. Mr. Chairman, the amendment offered by the gentleman from Illinois presents the issue between the majority and the minority of the Committee on Territories. It seems to me that it does not come with good grace from the gentleman from Illinois to criticize this side of the House for offering some condition for the admission of New Mexico, when he only a few moments ago offered a resolution as a condition for the admission of Arizona which not only said to the people of Arizona, "You must vote on an amendment to your constitution, but you must vote as we say you shall vote."

Now, the proposition of the majority is to allow the people of New Mexico to vote upon an amendment to their constitution. It has been represented to that committee, as I said a little while ago, by every shade of political thought in that Territory, except the stand-pat Republicans and the corporate interests there, that this constitution was framed up in the interests of the corporations of New Mexico, and this article on amendment was fixed so it would be impossible for a majority, even for three-fourths or four-fifths of the people of this proposed State, for years to come to amend it. They have asked that no condition be imposed upon the admission of this new State, except the people are permitted to vote upon an amendment to the article on amendments. Regardless of how they vote they come in. It does not delay them, and they are free to vote as they please, and not as the gentleman from Illinois would treat Arizona—require her people to vote a particular way. This represents the views, Mr. Chairman, of the people of New Mexico, as opposed to the corporate interests of New Mexico, and I hope this committee will vote this amendment down. [Applause on the Democratic side.]

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Illinois [Mr. MANN].

The question was taken, and the Chair announced that the noes seemed to have it.

Mr. MANN. Mr. Chairman, I ask for a division.

The committee divided; and there were—ayes 67, noes 117.

Mr. MANN. Mr. Chairman, I ask for tellers.

Tellers were ordered; and Mr. MANN and Mr. FLOOD of Virginia took their place as tellers.

The committee again divided; and the tellers reported—ayes 74, noes 141.

So the amendment was rejected.

Mr. SAUNDERS. Mr. Chairman, I would like to ask the chairman of the committee if, in line 17, on page 5 of the resolution, the committee does not mean to say "not more than two weeks" instead of "not less than two weeks"? Under the resolution as it now reads the last printing could be six months prior to the election.

Mr. FLOOD of Virginia. The last publication must be not less than two weeks before the election.

Mr. SAUNDERS. Not less than two weeks prior to the election; you want it "not more than two weeks"?

Mr. FLOOD of Virginia. Not less than two weeks.

Mr. SAUNDERS. There will be no harm if you bring it within two weeks, but under your provision here, if the last publication was six weeks prior to the election it would still be permissible under the act. You do not want it less than two weeks prior to the election?

Mr. FLOOD of Virginia. No.

Mr. SAUNDERS. You want it not more than two weeks prior to the election?

Mr. FLOOD of Virginia. I think the gentleman from Virginia is right about that, Mr. Chairman. Therefore I move to strike out the word "less" and insert the word "more."

The CHAIRMAN. The gentleman from Virginia [Mr. FLOOD] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 5, line 17, strike out the word "less" and insert the word "more."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The question now recurs to the adoption of the substitute as amended.

The question was taken, and the substitute as amended was agreed to.

Mr. FLOOD of Virginia. Mr. Chairman, I rise to a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FLOOD of Virginia. The title to the resolution has to be changed, and would it be proper to offer the amendment in committee or in the House?

The CHAIRMAN. The title would be changed after the engrossment and third reading of the resolution, in the opinion of the Chair.

Mr. FLOOD of Virginia. It will be done after we get into the House?

The CHAIRMAN. Yes; under the rules.

Mr. FLOOD of Virginia. Mr. Chairman, I move that the committee do now rise and report the resolution to the House with the several amendments, with the recommendation that the amendments be agreed to and that the resolution as amended do pass.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. GARRETT, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration House joint resolution 14, approving the constitutions formed by the constitutional conventions of the Territories of New Mexico and Arizona, and had directed him to report the same back to the House with amendments thereto, with the recommendation that the amendments be agreed to, and that the resolution as amended do pass.

The SPEAKER. The question is on agreeing to the amendments.

The question was taken, and the amendments were agreed to.

The SPEAKER. The question now is, Shall the joint resolution as amended be engrossed and read the third time?

The joint resolution was ordered to be engrossed and read the third time, and was read the third time.

Mr. MANN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. The gentleman from Illinois offers a motion to recommit, which the Clerk will report.

The Clerk read as follows:

Mr. MANN moved to recommit the resolution (H. J. Res. 14) to the Committee on the Territories, with instructions to report said resolution forthwith back to the House, with the following amendment, to wit:

Strike out all of said resolution after the word "that" in the first line of the resolution after the resolving clause, and insert in lieu thereof the following:

"The constitution formed by the constitutional convention of the Territory of New Mexico, elected in accordance with the terms of the act of Congress entitled 'An act to enable the people of New Mexico to form a constitution and State government and be admitted into the Union on an equal footing with the original States, and so forth,' approved June 20, A. D. 1910, which said constitutional convention met at Santa Fe, N. Mex., on the 3d day of October, A. D. 1910, and adjourned November 21, A. D. 1910, and which constitution was subsequently ratified and adopted by the duly qualified electors of the Territory of New Mexico, at an election held according to law on the 21st day of January, A. D. 1911, being republican in form, and not repugnant to the Constitution of the United States and the principles of the Declaration of Independence, and complying with the terms of said enabling act, be, and the same is hereby, approved, subject to the terms and conditions of the joint resolution entitled 'Joint resolution reaffirming the boundary line between Texas and the Territory of New Mexico,' approved on the 16th day of February, A. D. 1911.

"SEC. 2. That the Territory of Arizona be admitted into this Union as a State with the constitution which was formed by the constitutional convention of the Territory of Arizona, elected in accordance with the terms of the enabling act, approved June 20, A. D. 1910, which constitution was subsequently ratified and adopted by the duly qualified voters of the Territory of Arizona at an election held according to law on the 9th day of February, A. D. 1911, upon the fundamental condition, however, that article 8 of the said constitution of Arizona, in so far as it relates to the 'recall of public officers,' shall be held and construed not to apply to judicial officers, and that the people of Arizona shall give their assent to such construction of article 8 of the said constitution.

"That within 30 days after the passage of this resolution and its approval by the President, the President shall certify the fact to the governor of Arizona, who shall, within 30 days after the receipt of such certificate from the President, issue his proclamation for an election by the qualified voters of Arizona, to be held not earlier than 60 nor later than 90 days thereafter, at which election the qualified voters of Arizona shall vote upon the proposition that 'article 8 of the constitution, in so far as it relates to "recall of public officers," shall be held and construed not to apply to judicial officers,' and shall also vote for State and county officers, members of the State legislature, and Representatives in Congress, and all other officers provided for in said constitution of Arizona; said election to be held and the returns thereof made, canvassed, and certified as provided in section 23 of the enabling act approved June 20, 1910.

"If a majority of the qualified voters of Arizona voting at such election ratify and adopt the herein proposed construction of article 8 of the constitution, the same shall be and become a part of the said constitution, and said article 8 of said constitution, in so far as it relates to the 'recall of public officers,' shall have like effect as if judicial officers were expressly excepted therefrom.

"If the proposed construction of said article 8 of the constitution is duly ratified and adopted by the qualified voters of Arizona, the election of officers at the same election shall be and become valid and effective.

"When said election as to the proposed construction of the said constitution and of State and county officers, members of the legislature and Representatives in Congress, and other officers provided for in said constitution has been held, the result thereof shall at once be certified by the governor of the Territory of Arizona to the President of the United States, and if the proposed construction of article 8 of the said constitution of Arizona has been ratified and adopted by a majority of the qualified voters of Arizona voting at such election, the President of the United States shall immediately make proclamation thereof and of the result of the election of officers, and upon the issuance of said proclamation by the President of the United States, Arizona shall, without other proceeding, be deemed admitted by Congress into the Union by virtue of this joint resolution, upon the terms and conditions of the said enabling act approved June 20, 1910, except as modified herein, and on an equal footing with the other States."

Mr. MANN. Mr. Speaker, I do not know whether anyone desires to have that read through. It is a combination of the two amendments which I offered in the Committee of the Whole. I would suggest, Mr. Speaker, that the full reading be dispensed with.

The SPEAKER. The gentleman from Illinois asks that the full reading of the amendment be dispensed with. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Mr. ANDERSON of Minnesota. Mr. Speaker, I object.

The SPEAKER. Too late. [Laughter.] The question is on the motion to recommit the bill.

The question was taken, and the Speaker announced that the noes seemed to have it.

Mr. MANN. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 58, nays 215, answered "present" 10, not voting 99, as follows:

YEAS—58.

Austin	Foss	Knowland	Patton, Pa.
Bingham	Gardner, Mass.	Langham	Payne
Burke, Pa.	Gardner, N. J.	Langley	Plumley
Burke, S. Dak.	Good	Lawrence	Prouty
Butler	Greene	Longworth	Roberts, Mass.
Calder	Griest	Loud	Speer
Cannon	Harris	McCall	Steenerson
Catlin	Hartman	McGuire, Okla.	Taylor, Ohio
Copley	Heald	McKinney	Towner
Crumpacker	Hinds	McMorran	Weeks
Danforth	Howell	Madison	Willis
Dodds	Howland	Mann	Wilson, Ill.
Dwight	Humphrey, Wash.	Mondell	Young, Mich.
Dyer	Kahn	Nye	
Focht	Kennedy	Olmsted	

NAYS—215.

Adair	Dupre	Konop	Roberts, Nev.
Aiken, S. C.	Edwards	Lafferty	Roddenbery
Akin, N. Y.	Ellerbe	La Follette	Rothermel
Alexander	Esch	Lamb	Rouse
Allen	Evans	Latta	Rubey
Anderson, Minn.	Faison	Lee, Ga.	Rucker, Colo.
Anderson, Ohio	Farr	Lee, Pa.	Russell
Ashbrook	Ferris	Legare	Sabath
Ayers	Fields	Lenroot	Saunders
Bartlett	Fitzgerald	Lever	Scully
Bathrick	Flood, Va.	Lewis	Sells
Beall, Tex.	Floyd, Ark.	Lindbergh	Shackleford
Berger	Fowler	Linthicum	Sharp
Blackmon	Francis	Littlepage	Sheppard
Borland	Garner	Littleton	Sherley
Bowman	Garrett	Lloyd	Sherwood
Brantley	George	Loback	Sims
Broussard	Godwin, N. C.	McCoy	Sisson
Brown	Goodwin, Ark.	McDermott	Sloan
Buchanan	Gould	McGillicuddy	Smith, J. M. C.
Bulkley	Graham	McLaughlin	Smith, N. Y.
Burke, Wis.	Gray	Macon	Smith, Tex.
Burleson	Gregg, Pa.	Maguire, Nebr.	Stack
Byrnes, S. C.	Gregg, Tex.	Martin, Colo.	Stanley
Byrns, Tenn.	Gudger	Mays	Stedman
Callaway	Hamill	Miller	Stephens, Cal.
Campbell	Hamilton, W. Va.	Moon, Tenn.	Stephens, Miss.
Candler	Hamlin	Morgan	Stephens, Tex.
Cantrill	Hammond	Moss, Ind.	Stone
Carlin	Hardy	Mott	Sulloway
Clark, Fla.	Harrison, Miss.	Murdock	Sulzer
Claypool	Hay	Murray	Sweet
Clayton	Heflin	Needham	Talbott, Md.
Cline	Helgesen	Norris	Talcott, N. Y.
Collier	Helm	Oldfield	Thayer
Connell	Henry, Tex.	O'Shaunessy	Thomas
Conry	Hensley	Padgett	Townsend
Cooper	Holland	Page	Tribble
Covington	Houston	Patten, N. Y.	Turnbull
Cox, Ind.	Howard	Pepper	Tuttle
Curley	Hubbard	Peters	Underwood
Daizell	Hughes, Ga.	Post	Volstead
Daugherty	Hughes, N. J.	Pou	Warburton
Davis, Minn.	Hull	Pray	Watkins
Dent	Jackson	Pujo	Webb
Denver	Jacoway	Rainey	Wedemeyer
Dickinson	Johnson, Ky.	Raker	Wickliffe
Dickson, Miss.	Jones	Randell, Tex.	Wilson, N. Y.
Dies	Kendall	Ransdell, La.	Wilson, Pa.
Difenderfer	Kindred	Rauch	Witherspoon
Dixon, Ind.	Kinkaid, Nebr.	Redfield	Woods, Iowa
Donohoe	Kinkead, N. J.	Rees	Young, Kans.
Doremus	Kipp	Reilly	Young, Tex.
Doughton	Konig	Richardson	

ANSWERED "PRESENT"—10.

Boehne	Fornes	Hamilton, Mich.	Stevens, Minn.
Booher	French	Hobson	
Davis, W. Va.	Goeke	Powers	

NOT VOTING—99.

Ames	Finley	Kitchin	Porter
Andrus	Fordney	Kopp	Prince
Ansberry	Foster, Ill.	Korbly	Riordan
Anthony	Foster, Vt.	Lafean	Robinson
Barchfeld	Fuller	Levy	Rodenberg
Barnhart	Gallagher	Lindsay	Rucker, Mo.
Bartholdt	Gillett	Loudenslager	Simmons
Bates	Glass	McCreary	Slayden
Bell, Ga.	Goldfogle	McHenry	Slemp
Bradley	Gordon	McKinley	Small
Burnett	Guernsey	Madden	Smith, Saml. W.
Carter	Hanna	Maher	Sparkman
Cary	Hardwick	Malby	Sterling
Cox, Ohio	Harrison, N. Y.	Martin, S. Dak.	Switzer
Crago	Haugen	Matthews	Taylor, Ala.
Cravens	Hawley	Mitchell	Taylor, Colo.
Cullop	Hayes	Moon, Pa.	Thistlewood
Currier	Henry, Conn.	Moore, Pa.	Tilson
Davenport	Higgins	Moore, Tex.	Underhill
Davidson	Hill	Morrison	Utter
De Forest	Hughes, W. Va.	Morse, Wis.	Vreeland
Draper	Humphreys, Miss.	Nelson	Whitacre
Driscoll, D. A.	James	Palmer	Wilder
Driscoll, M. E.	Johnson, S. C.	Parran	Wood, N. J.
Fairchild	Kent	Pickett	

So the motion to recommit was rejected.

The Clerk announced the following pairs:

For the session:

Mr. FORNES with Mr. BRADLEY.

Mr. RIORDAN with Mr. ANDRUS.

Mr. FINLEY with Mr. CURRIER.

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Until further notice:

Mr. DANIEL A. DRISCOLL with Mr. DAVISON.

Mr. GLASS with Mr. LAFEAN.

Mr. HUMPHREYS of Mississippi with Mr. HIGGINS.

Mr. JOHNSON of South Carolina with Mr. HAUGEN.

Mr. KORBLY with Mr. MARTIN of South Dakota.

Mr. UNDERHILL with Mr. MOON of Pennsylvania.

Mr. WHITACRE with Mr. STERLING.

Mr. GORDON with Mr. WILDER.

Mr. RUCKER of Missouri with Mr. PARRAN.

Mr. ANSBERRY with Mr. PORTER.

Mr. MAHER with Mr. SAMUEL W. SMITH.

Mr. COX of Ohio with Mr. WOOD of New Jersey.

Mr. MORRISON with Mr. GILLETT.

Mr. GALLAGHER with Mr. FULLER.

Mr. LEVY with Mr. MICHAEL E. DRISCOLL.

Mr. DAVIS of West Virginia with Mr. MCCREARY.

Mr. JAMES with Mr. HAMILTON of Michigan.

Mr. ROBINSON with Mr. FORDNEY.

Mr. ESTOPINAL with Mr. HENRY of Connecticut.

Mr. MCHENRY with Mr. HANNA.

Mr. GOLDFOGLE with Mr. SLEMP.

Mr. BOOHER with Mr. SULLOWAY.

Mr. FOSTER of Illinois with Mr. KOPP.

Mr. HOBSON with Mr. FAIRCHILD. (Transferrable.)

Mr. MOORE of Texas with Mr. HAYES. (Transferrable.)

Mr. CRAVEN with Mr. LOUDENSLAGER.

Mr. ELLERBE with Mr. DRAPER.

Mr. SLAYDEN with Mr. TILSON.

Mr. BARNHART with Mr. SIMMONS.

Mr. TAYLOR of Alabama with Mr. CARY.

Mr. SPARKMAN with Mr. BARCHFELD.

For two weeks:

Mr. CULLOP with Mr. PICKETT.

Mr. BELL of Georgia with Mr. FRENCH.

From May 13 for two weeks:

Mr. DAVENPORT with Mr. RODENBERG.

From Monday, May 15, for two weeks:

Mr. BURNETT with Mr. THISTLEWOOD.

From May 20 for two weeks:

Mr. HARDWICK with Mr. UTTER.

From May 9 to 24, inclusive:

Mr. GOEKE with Mr. BARTHOLDT.

From May 16 until May 26:

Mr. LINDSAY with Mr. SWITZER.

From May 23 until May 24 noon:

Mr. WHITE with Mr. CRAGO.

For the vote:

Mr. NELSON (against recommitment) with Mr. MADDEN (in favor).

Mr. KENT (against recommitment) with Mr. HILL of Connecticut (in favor).

Mr. KITCHIN (against recommitment) with Mr. PRINCE.

Mr. MALBY (in favor of recommitment) with Mr. ANTHONY (against).

Mr. SMALL (against recommitment) with Mr. MCKINLEY (in favor).

Mr. CARTER (against recommitment) with Mr. MOTT (in favor).

Mr. PALMER (against recommitment) with Mr. DE FOREST (in favor).

Mr. GOEKE. Mr. Speaker, I voted "no." I ask permission to withdraw my vote and to vote "present," as I am paired with the gentleman from Missouri [Mr. BARTHOLDT], who did not vote.

Mr. FORNES. Mr. Speaker, I voted "no." I am paired with the gentleman from New York [Mr. BRADLEY], and so I vote "present."

Mr. FRENCH. Mr. Speaker, I voted "no," but I notice that the gentleman from Georgia [Mr. BELL] did not vote at all. I have a general pair with him, and therefore I withdraw my vote and vote "present."

Mr. HAMILTON of Michigan. Mr. Speaker, I voted "aye" on this roll call, but I am paired with the gentleman from Kentucky [Mr. JAMES], and I desire to withdraw my vote and to answer "present."

The result of the vote was announced as above recorded.

The SPEAKER. The question is, Shall House joint resolution 14 pass?

The question being taken, the joint resolution was passed.

Mr. FLOOD of Virginia. Mr. Speaker, I move to amend the title. I send the amendment to the Clerk's desk.

The SPEAKER. The gentleman from Virginia offers an amendment to the title, which the Clerk will report.

The Clerk read as follows:

Amend the title so that it will read "Joint resolution to admit the Territories of New Mexico and Arizona as States into the Union upon an equal footing with the original States."

The amendment to the title was agreed to.

On motion of Mr. FLOOD of Virginia, a motion to reconsider the vote by which the bill was passed was laid on the table.

SENATE BILLS AND JOINT RESOLUTIONS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. J. Res. 18. Joint resolution authorizing free or reduced transportation to members of the Grand Army of the Republic and others whenever attending regular annual encampments, reunions, or conventions, and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. 1095. An act to authorize the surveyor of the District of Columbia to adopt the system of designating land in the District of Columbia in force in the office of the assessor of said District; to the Committee on the District of Columbia.

S. 1082. An act to receive arrearages of taxes due to the District of Columbia to July 1, 1908, at 6 per cent interest per annum in lieu of penalties and costs; to the Committee on the District of Columbia.

S. 19. An act authorizing the Secretary of War to convey the outstanding title of the United States to lots 3 and 4, square 103, in the city of Washington, D. C.; to the Committee on the District of Columbia.

S. 29. An act to amend paragraph 43 of an act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1903, and for other purposes; to the Committee on Appropriations.

S. 1087. An act to amend an act entitled "An act to provide for the better registration of births in the District of Columbia, and for other purposes," approved March 1, 1907; to the Committee on the District of Columbia.

S. 30. An act to provide for the extension of Kenyon Street from Seventeenth Street to Mount Pleasant Street, and for the extension of Seventeenth Street from Kenyon Street to Irving Street, in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

S. 1094. An act for the widening of Sixteenth Street NW. at Piney Branch, and for other purposes; to the Committee on the District of Columbia.

S. 206. An act to confirm the name of Commodore Barney Circle for the circle located at the eastern end of Pennsylvania Avenue SE., in the District of Columbia; to the Committee on the District of Columbia.

S. 21. An act for the relief of Ida A. Chew, owner of lot 112, square 721, Washington, D. C., with regard to assessment and payment of damages on account of changes of grade due to construction of the Union Station, District of Columbia; to the Committee on the District of Columbia.

S. 32. An act to amend an act entitled "An act to provide for the extension of Newton Place NW. from New Hampshire Avenue to Georgia Avenue, and to connect Newton Place in

Gass's subdivision with Newton Place in Whitney Close subdivision," approved February 21, 1910; to the Committee on the District of Columbia.

S. 1090. An act providing for guides in the District of Columbia, and defining their duties; to the Committee on the District of Columbia.

S. 267. An act providing for assisting indigent persons other than natives in the District of Alaska; to the Committee on the Territories.

S. 12. An act to give effect to the provisions of a treaty between the United States and Great Britain, concerning the fisheries in waters contiguous to the United States and the Dominion of Canada, signed at Washington on April 1, 1908, and ratified by the United States Senate April 13, 1908; to the Committee on Foreign Affairs.

S. 1627. An act to authorize the construction, maintenance, and operation of a bridge across and over the Arkansas River, and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. 2003. An act authorizing the Secretary of the Navy to make partial payments for work already done under public contracts; to the Committee on Naval Affairs.

S. 940. An act granting to the city of Los Angeles certain rights of way in, over, and through certain lands and national forests in the State of California; to the Committee on Public Lands.

S. 2434. An act providing for an increase of salary of the United States marshal for the district of Connecticut; to the Committee on the Judiciary.

LEAVES OF ABSENCE.

By unanimous consent leaves of absence were granted to the following Members:

To Mr. PLUMLEY, indefinitely, because of important business.

To Mr. ADAMSON, for one week, on account of official business.

To Mr. HANNA, until further notice, on account of illness.

To Mr. TAYLOR of Alabama, indefinitely, on account of important business.

To Mr. MCLAUGHLIN, for 10 days, on account of important business.

RESIGNATION FROM COMMITTEE.

The SPEAKER laid before the House the following communication:

WASHINGTON, D. C., *May 23, 1911.*

Hon. CHAMP CLARK, *Speaker House of Representatives.*

SIR: I hereby tender my resignation as a member of the Committee on Expenditures in the War Department, to take effect at the pleasure of the Speaker.

CHARLES F. BOOHER.

Mr. MANN. Mr. Speaker, what has become of the request for the leaves of absence?

The SPEAKER. They have been granted.

Mr. MANN. Does that include the resignation from the Committee on Expenditures in the War Department, and does that take effect now?

The SPEAKER. It takes effect now.

ADJOURNMENT OVER.

Mr. UNDERWOOD. Mr. Speaker, I move that when the House adjourns to-day it adjourn to meet on Friday next.

The SPEAKER. The gentleman from Alabama moves that when the House adjourns to-day it adjourn to meet at 12 o'clock on Friday next.

The motion was considered and agreed to.

THE LATE REPRESENTATIVE ALLEN OF MAINE.

Mr. HINDS. Mr. Speaker, I ask unanimous consent that the following order be made.

The Clerk read as follows:

Ordered, That there be a session of the House on Sunday, June 11, at 12 m., and that the said session be devoted to eulogies on the life, character, and public services of AMOS L. ALLEN, late a Representative from the State of Maine.

The SPEAKER. Is there objection to the request of the gentleman from Maine? [After a pause.] The Chair hears none, and it is so ordered.

LEAVE TO EXTEND REMARKS.

Mr. STEPHENS of California. Mr. Speaker, I ask unanimous consent for leave to extend my remarks in the RECORD.

The SPEAKER. The gentleman from California asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. FLOOD of Virginia. Mr. Speaker, I ask unanimous consent that all who spoke on the statehood bill be allowed to extend remarks in the RECORD.

The SPEAKER. For how long?

Mr. FLOOD of Virginia. For five days.

The SPEAKER. The gentleman from Virginia asks unanimous consent that all those who made remarks on the statehood bill have five days to extend remarks in the RECORD.

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Virginia if he thinks anyone who spoke on the subject except myself did not get leave to extend remarks in the RECORD?

Mr. FLOOD of Virginia. One or two gentlemen have asked me to make the request, and I did not suppose they had got leave.

Mr. MANN. There were 15 or 20 who did, but I shall make no opposition unless I find that the privilege is abused in a way to which I expect later to call to the attention of the House by inserting in their remarks "Loud and tumultuous applause," "Prolonged applause," "Loud laughter and applause," all of which never took place. That I shall call to the attention of the House later.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

ADJOURNMENT.

Mr. UNDERWOOD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock p. m.) the House, under its previous order, adjourned until Friday, May 26, 1911, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, a letter from the Secretary of the Treasury, transmitting photograph and sketches prepared for a building for the Geological Survey, etc. (H. Doc. No. 62), was taken from the Speaker's table, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. MACON: A bill (H. R. 10504) authorizing the Secretary of War to furnish three condemned bronze or brass cannon or fieldpieces and cannon balls to the city of Marianna, State of Arkansas; to the Committee on Military Affairs.

By Mr. HARTMAN: A bill (H. R. 10505) providing for the purchase of a site and the erection thereon of a public building at Hollidaysburg, in the State of Pennsylvania; to the Committee on Public Buildings and Grounds.

By Mr. AYRES: A bill (H. R. 10506) to amend an act of Congress approved June 9, 1910, entitled "An act to amend laws for preventing collisions of vessels and to regulate equipment of certain motor boats on the navigable waters of the United States"; to the Committee on the Merchant Marine and Fisheries.

By Mr. J. M. C. SMITH: A bill (H. R. 10507) to provide for the purchase of a site for a public building at Marshall, Mich.; to the Committee on Public Buildings and Grounds.

By Mr. SMITH of Texas: A bill (H. R. 10508) to protect trade and commerce against unlawful restraints and monopolies; to the Committee on Interstate and Foreign Commerce.

By Mr. HENSLEY: A bill (H. R. 10509) to extend the provision of the pension acts of June 27, 1890, and of February 6, 1907, to all State militia and other organizations that were organized for the defense of the Union and cooperated with the military or naval forces of the United States in suppressing the War of the Rebellion; to the Committee on Invalid Pensions.

By Mr. FAISON: A bill (H. R. 10510) to provide for the defense of Beaufort Harbor, N. C., and the inland waters of the State tributary thereto; to the Committee on Appropriations.

Also, a bill (H. R. 10511) appropriating the sum of $20,000 for repairs and improvement of the roadway to the national cemetery at Newbern, N. C.; to the Committee on Military Affairs.

Also, a bill (H. R. 10512) to increase the salaries of lighthouse keepers; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 10513) providing for beacon lights in Bogue Sound, Carteret County, N. C.; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 10514) for the survey of Northeast Cape Fear River, N. C.; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 10515) for the survey of Shelter River, N. C., with a view to the improvement of its navigation; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 10516) for the improvement of navigation of Carrot Island Slough, Carteret County, N. C.; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 10517) to appropriate the sum of $10,000 for equipping and maintaining a weather bureau observatory at Warsaw, N. C.; to the Committee on Agriculture.

By Mr. BORLAND: A bill (H. R. 10518) for the enlargement of the Federal building at Kansas City, Mo.; to the Committee on Public Buildings and Grounds.

By Mr. CANDLER: A bill (H. R. 10519) to amend the act entitled "An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1908," approved March 4, 1907; and to amend the act entitled "An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1907," approved June 30, 1906; to the Committee on Agriculture.

By Mr. FRENCH: A bill (H. R. 10520) authorizing Indians in the Kootenai Valley, Idaho, to enter into drainage contracts; to the Committee on Indian Affairs.

By Mr. EDWARDS: A bill (H. R. 10521) to establish a fish-hatching and fish-cultural station for the hatching and propagation of shad in Georgia; to the Committee on the Merchant Marine and Fisheries.

By Mr. LANGLEY: A bill (H. R. 10522) to amend section 1 of an act entitled "An act granting pensions to certain enlisted men, soldiers and officers, who served in the Civil War and the War with Mexico"; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10523) granting pensions to volunteer Army nurses of the Civil War; to the Committee on Invalid Pensions.

By Mr. KONOP: A bill (H. R. 10524) for the payment of certain logging claims on the Menominee (Wis.) Indian Reservation; to the Committee on Indian Affairs.

By Mr. LAFFERTY: Joint resolution (H. J. Res. 108) authorizing the Secretary of War to loan certain tents for the use of the Astoria Centennial, to be held at Astoria, Oreg., August 10 to September 9, 1911; to the Committee on Military Affairs.

By Mr. SMITH of New York: Joint resolution (H. J. Res. 109) extending the operation of the act for the control and regulation of the waters of Niagara River for the preservation of Niagara Falls, and for other purposes; to the Committee on Foreign Affairs.

By Mr. FULLER: Memorial of the Legislature of the State of Illinois for an amendment to the Constitution giving to Congress the power to prevent and suppress monopolies; to the Committee on the Judiciary.

By Mr. FOSS: Memorial of the Legislature of the State of Illinois for an amendment to the Constitution giving to Congress the power to prevent and suppress monopolies; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ASHBROOK: A bill (H. R. 10525) granting an increase of pension to Edward Steinbaugh; to the Committee on Invalid Pensions.

By Mr. BOOHER: A bill (H. R. 10526) granting an increase of pension to Congreve J. Jacks; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10527) granting an increase of pension to Elias Smith; to the Committee on Invalid Pensions.

By Mr. BROWN: A bill (H. R. 10528) granting an increase of pension to George A. Porterfield; to the Committee on Invalid Pensions.

By Mr. COX of Ohio: A bill (H. R. 10529) granting a pension to Paul Kroll; to the Committee on Pensions.

Also, a bill (H. R. 10530) granting a pension to William V. S. Walter; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10531) granting a pension to Thomas E. Haggerty; to the Committee on Pensions.

Also, a bill (H. R. 10532) granting a pension to Ida M. Hammon; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10533) granting a pension to Daniel Jones; to the Committee on Pensions.

Also, a bill (H. R. 10534) granting a pension to A. H. Barnes; to the Committee on Pensions.

Also, a bill (H. R. 10535) granting a pension to Theodore J. Kountz; to the Committee on Pensions.

Also, a bill (H. R. 10536) granting a pension to Alice B. Taylor; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10537) granting a pension to George Paul; to the Committee on Pensions.

Also, a bill (H. R. 10538) granting a pension to Joel Loganbill; to the Committee on Pensions.

Also, a bill (H. R. 10539) granting an increase of pension to Robert Fitzimmons; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10540) granting an increase of pension to John O. Harmon; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10541) granting an increase of pension to Daniel Kennedy; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10542) granting an increase of pension to George Botner; to the Committee on Pensions.

Also, a bill (H. R. 10543) granting an increase of pension to George T. Robison; to the Committee on Pensions.

Also, a bill (H. R. 10544) granting an increase of pension to Daniel Williams; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10545) granting an increase of pension to Salem Williams; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10546) granting an increase of pension to David Burks; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10547) granting an increase of pension to Eugene Hewel; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10548) granting an increase of pension to William Brice; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10549) granting an increase of pension to Jacob R. Stover; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10550) granting an increase of pension to Francis M. Mast; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10551) granting an increase of pension to William K. Logan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10552) granting an increase of pension to George W. C. Jenifer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10553) granting an increase of pension to Henry M. Parks; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10554) granting an increase of pension to George Lutz; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10555) granting an increase of pension to John S. Pence; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10556) granting an increase of pension to Francis X. Kapps; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10557) granting an increase of pension to Clay Deckert; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10558) granting an increase of pension to Edward H. Schutt; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10559) granting an increase of pension to Jonathan H. Beard; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10560) granting an increase of pension to John G. Price; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10561) granting an increase of pension to Richard Burns; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10562) granting an increase of pension to Peter Larson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10563) granting an increase of pension to Dennis Tracy; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10564) granting an increase of pension to Joseph Hime; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10565) granting an increase of pension to William Trew; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10566) granting an increase of pension to Isaiah Anderson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10567) granting an increase of pension to John Carr, alias John McCarthy; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10568) granting an increase of pension to Joseph Frederick Nurrembrock; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10569) granting an increase of pension to Ira Marsh; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10570) granting an increase of pension to Isaac Newton Spaid; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10571) granting an increase of pension to David H. Richardson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10572) granting an increase of pension to D. T. Elliott; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10573) granting an increase of pension to George L. Mull; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10574) granting an increase of pension to Lawrence Dempsey; to the Committee on Pensions.

Also, a bill (H. R. 10575) granting an increase of pension to William H. Snoderly; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10576) granting an increase of pension to William Longstreth; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10577) granting an increase of pension to Levi J. Sliver; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10578) granting an increase of pension to John Faber; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10579) granting an increase of pension to Gilbert H. Kneeland; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10580) granting an increase of pension to William D. Tod; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10581) granting an increase of pension to George W. Phipps; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10582) granting an increase of pension to Joseph Rodefer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10583) granting an increase of pension to John C. Johnson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10584) granting an increase of pension to Charles Johnson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10585) granting an increase of pension to Frank Emonnin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10586) granting an increase of pension to Eli H. Longley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10587) granting an increase of pension to John Stewart; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10588) granting an increase of pension to James A. Turner, alias Anthony Riddle; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10589) granting an increase of pension to Franklin L. Rominger; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10590) granting an increase of pension to James A. Carrell; to the Committee on Pensions.

Also, a bill (H. R. 10591) granting an increase of pension to Marion P. Phillips; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10592) granting an increase of pension to Thornton J. Warner; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10593) granting an increase of pension to James Kemp; to the Committee on Pensions.

By Mr. CRAVENS: A bill (H. R. 10594) for the relief of the heirs of W. W. Fleming; to the Committee on War Claims.

By Mr. DODDS: A bill (H. R. 10595) granting an increase of pension to William H. Salisbury; to the Committee on Invalid Pensions.

By Mr. FAISON: A bill (H. R. 10596) for the relief of the trustees of Salem Church, Wayne County, N. C.; to the Committee on War Claims.

Also, a bill (H. R. 10597) to carry out the findings of the Court of Claims in the case of the First Baptist Church, Newbern, N. C.; to the Committee on War Claims.

Also, a bill (H. R. 10598) to carry into effect the findings of the Court of Claims in the matter of the claim of the estate of George W. Perry, deceased; to the Committee on War Claims.

Also, a bill (H. R. 10599) to carry into effect the findings of the Court of Claims in the matter of the claim of the Methodist Episcopal Church South, of Morehead City, N. C.; to the Committee on War Claims.

Also, a bill (H. R. 10600) to carry into effect the findings of the Court of Claims in the matter of the claim of the estate of Raiford Brewington, deceased; to the Committee on War Claims.

Also, a bill (H. R. 10601) to carry into effect the findings of the Court of Claims in the matter of the claim of the Hood Swamp Baptist Church, of Wayne County, N. C.; to the Committee on War Claims.

By Mr. GOULD: A bill (H. R. 10602) granting an increase of pension to Warren Taylor; to the Committee on Invalid Pensions.

By Mr. GEORGE: A bill (H. R. 10603) for the relief of Julius L. Bullard; to the Committee on Military Affairs.

Also, a bill (H. R. 10604) granting a pension to John Sink; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10605) granting a pension to John Butler; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10606) granting an increase of pension to Joseph D. Donellen; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10607) granting an increase of pension to Michael Baker; to the Committee on Invalid Pensions.

By Mr. O'SHAUNESSY: A bill (H. R. 10608) granting an increase of pension to Hattie A. Reynolds; to the Committee on Invalid Pensions.

By Mr. PEPPER: A bill (H. R. 10609) granting a pension to William M. Wilson; to the Committee on Pensions.

By Mr. PROUTY: A bill (H. R. 10610) granting an increase of pension to Jacob Lutz; to the Committee on Invalid Pensions.

By Mr. RAUCH: A bill (H. R. 10611) granting an increase of pension to William Delvin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10612) granting an increase of pension to McGill Clarke; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10613) granting an increase of pension to Joseph Collins; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10614) granting an increase of pension to John R. Kingman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10615) granting an increase of pension to James A. Wells; to the Committee on Invalid Pensions.

By Mr. RUBEY: A bill (H. R. 10616) granting an increase of pension to Alexander Murphy; to the Committee on Invalid Pensions.

By Mr. RUSSELL: A bill (H. R. 10617) granting an increase of pension to Ottillia H. Smith; to the Committee on Invalid Pensions.

By Mr. SCULLY: A bill (H. R. 10618) granting a pension to Matthias Van Pelt; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10619) granting an increase of pension to Abram R. Newman; to the Committee on Invalid Pensions.

By Mr. SMALL: A bill (H. R. 10620) granting a pension to Usenia Newby; to the Committee on Invalid Pensions.

By Mr. STEPHENS of California: A bill (H. R. 10621) granting an increase of pension to James F. Boyle; to the Committee on Invalid Pensions.

By Mr. STEVENS of Minnesota: A bill (H. R. 10622) granting a pension to Jennie L. Williams; to the Committee on Pensions.

Also, a bill (H. R. 10623) granting a pension to Isaac Labissoniere; to the Committee on Pensions.

Also, a bill (H. R. 10624) granting a pension to Walter H. Davies; to the Committee on Pensions.

Also, a bill (H. R. 10625) granting an increase of pension to Edwin S. Bean; to the Committee on Pensions.

Also, a bill (H. R. 10626) granting an increase of pension to Louis Westhauser; to the Committee on Pensions.

Also, a bill (H. R. 10627) granting an increase of pension to Frederick Hester; to the Committee on Pensions.

By Mr. STONE: A bill (H. R. 10628) for the relief of Lars P. Peterson; to the Committee on Claims.

By Mr. WHITE: A bill (H. R. 10629) to correct the military record of Richard Bond; to the Committee on Military Affairs.

Also, a bill (H. R. 10630) to correct the military record of Bennett F. Jackson; to the Committee on Military Affairs.

Also, a bill (H. R. 10631) granting an increase of pension to Napoleon B. Agy; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10632) granting an increase of pension to John T. Waxler; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10633) granting an increase of pension to John Dunn; to the Committee on Invalid Pensions.

By Mr. WILSON of Illinois: A bill (H. R. 10634) granting a pension to Henry C. Stratton; to the Committee on Pensions.

Also, a bill (H. R. 10635) granting an increase of pension to Edward Sprague; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10636) granting an increase of pension to Jesse Sherwood; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10637) granting an increase of pension to Henry C. Adams; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10638) granting an increase of pension to James L. Cornell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10639) granting an increase of pension to William D. Giesman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10640) to remove the charge of desertion from the military record of Daniel G. Lang; to the Committee on Military Affairs.

By Mr. AUSTIN: A bill (H. R. 10641) for the relief of Marion B. Patterson; to the Committee on Claims.

By Mr. LEWIS: A bill (H. R. 10642) for the relief of the estate of John Young, deceased; to the Committee on War Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petitions of L. B. Barcroft and S. S. Urfer, merchants of Coshocton and New Philadelphia, Ohio, asking for a reduction of the duty on raw and refined sugars; to the Committee on Ways and Means.

By Mr. BUTLER: Resolution of Washington Camp, No. 298, Patriotic Order Sons of America, of Uwchland, Pa., urging immediate enactment of the illiteracy test into law; to the Committee on Immigration and Naturalization.

By Mr. CALDER: Petition of A. J. Muldoon, protesting against H. R. 8887; to the Committee on Ways and Means.

Also, resolutions of Manufacturers' Association of New York, approving Senate bill 4982, entitled "A bill to establish a United States court of patent appeals," etc.; to the Committee on Patents.

Also, resolutions of Manufacturers' Association of New York, asking for separate action on the different schedules of tariff; to the Committee on Ways and Means.

By Mr. CRAVENS: Papers to accompany a bill for the relief of the heirs of W. W. Fleming; to the Committee on War Claims.

By Mr. CURLEY: Resolution in protest of pollution of rivers and harbors; to the Committee on the Merchant Marine and Fisheries.

Also, resolution in protest against proposed treaty between United States and Great Britain; to the Committee on Foreign Relations.

By Mr. DAVIS of West Virginia: Petitions of sundry citizens of West Virginia, protesting against the establishment of a parcels post; to the Committee on the Post Office and Post Roads.

By Mr. DYER: Resolution of house of representatives of Missouri, relating to pension matters; to the Committee on Invalid Pensions.

By Mr. FITZGERALD: Resolutions of the Fine Arts Federation of New York, indorsing report of the park commission appointed by the Senate Committee of the District of Columbia in general and in particular the site for the Lincoln memorial, and urging its adoption by the Lincoln Memorial and Fine Arts Commissions; to the Committee on Public Buildings and Grounds.

Also, resolutions of the Manufacturers' Association of New York, favoring Senate bill 4982, entitled "A bill to establish a United States court of patent appeals"; to the Committee on Patents.

Also, resolutions of the Manufacturers' Association of New York, affecting the tariff; to the Committee on Ways and Means.

Also, resolutions of the Shoe Manufacturers' Association of New York, protesting against such legislation as ruinous to the shoe and leather industries and as threatening the very existence of business; to the Committee on Ways and Means.

By Mr. FRENCH: Petitions from citizens of Idaho, protesting against the passage of a parcels-post law; to the Committee on the Post Office and Post Roads.

Also, petitions of Falk Wholesale Co. and Dandson Grocery Co., of Boise, Idaho, asking for reduction in the duty on raw and refined sugars; to the Committee on Ways and Means.

By Mr. GRIEST: Protest of H. F. Ruhl, Manheim, Pa., and of John Henry Miller in behalf of the druggists of Lancaster, Pa., against the passage of H. R. 8887, being a bill providing revenue by a stamp tax on proprietary medicines, etc.; to the Committee on Ways and Means.

Also, petition of residents of Lancaster, Pa., for the enactment of an old-age pension system; to the Committee on Pensions.

By Mr. HARTMAN: Petition of Sinking Valley Grange, Pennsylvania, asking for reduction in duty on raw and refined sugars; to the Committee on Ways and Means.

By Mr. HELM: Papers to accompany House bill 10281, granting an increase of pension to Martha Gaines; to the Committee on Pensions.

By Mr. MAGUIRE of Nebraska: Petition of business men of Lincoln, Nebr., requesting a reduction in the rate of duty on raw and refined sugars; to the Committee on Ways and Means.

By Mr. MORGAN: Petitions of various citizens of the second congressional district, State of Oklahoma, protesting against the passage of Senate bill 237; to the Committee on the District of Columbia.

By Mr. OLMSTED: Petitions of sundry citizens of the eighteenth congressional district of Pennsylvania, favoring the establishment of a national bureau of health; to the Committee on Interstate and Foreign Commerce.

Also, petitions of sundry citizens of the eighteenth congressional district of Pennsylvania for reduction of duty on sugar; to the Committee on Ways and Means.

By Mr. PRINCE: Resolution of Kewanee (Ill.) Socialist Lodge, asking Committee on Rules of House to report Berger resolution of inquiry relative to McNamara case; to the Committee on Rules.

By Mr. ROTHERMEL: Resolution of Local Lodge No. 61, Patriotic Order Sons of America, of Reading, Pa.; to the Committee on Labor.

Also, resolution of Local Lodge No. 113, Patriotic Order Sons of America, Bernville, Pa.; to the Committee on Labor.

Also, resolution of Local Lodge No. 99, Wernerville, Pa.; to the Committee on Labor.

By Mr. ROUSE: Petition of citizens of Louisville, Ky., asking for repeal of tariff on lemons; to the Committee on Ways and Means.

By Mr. SCULLY: Petition of Mercer County (N. J.) Central Labor Union, urging the passage of the Berger resolution; to the Committee on Labor.

By Mr. SM[illegible] of Texas: Petitions of sundry citizens of Texas, asking for reduction in duty on raw and refined sugars; to the Committee on Ways and Means.

Also, petitions of sundry citizens of Texas, asking for reduction in duty on raw and refined sugars; to the Committee on Ways and Means.

By Mr. SULZER: Resolutions of Downtown Taxpayers' Association, recommending acquisition by the Government by purchase of additional water front for Brooklyn Navy Yard; to the Committee on Naval Affairs.

By Mr. TUTTLE: Petitions from Union Council, No. 31, Junior Order United American Mechanics, and Old Glory Council, No. 16, United American Mechanics, of Rahway, N. J., recommending restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. UTTER: Petition of the Carded Woolen Manufacturers' Association, of Boston, for ad valorem instead of specific rates of duty on wool and by-products; to the Committee on Ways and Means.

Also, petition of Whitehead Bros. Co., of Providence, R. I., urging prompt action upon a special appropriation bill for a public building at Bangor, Me.; to the Committee on Public Buildings and Grounds.

Also, petition of Druggists' Association of Providence, R. I., against a stamp tax on proprietary medicines; to the Committee on Ways and Means.

Also, petition of sundry citizens of Narragansett Pier, R. I., for a reduction of duty on sugar; to the Committee on Ways and Means.

SENATE.

WEDNESDAY, *May 24, 1911.*

The Senate met at 12 o'clock m.

Prayer by Rev. John Van Schaick, of the city of Washington.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT laid before the Senate a communication from the clerk of the House of Representatives of the Commonwealth of Massachusetts, transmitting a resolution passed by that body favoring the adoption of an amendment to the Constitution providing for the election of Senators by direct vote, which was ordered to lie on the table and to be printed in the RECORD, as follows:

THE COMMONWEALTH OF MASSACHUSETTS,
HOUSE OF REPRESENTATIVES,
May 18, 1911.

Whereas there is an earnest, general, and widespread demand that United States Senators be elected by the direct majority vote of the electors of the several States; and

Whereas the desire of the citizens for an amendment of the Constitution of the United States securing to them this right has been manifested in various ways in a large majority of the said States, including the Commonwealth of Massachusetts; and

Whereas a resolution proposing such an amendment for submission to the several States has recently been adopted by the lower branch of the present Congress and is now under consideration in the Senate: Therefore be it

Voted, That the House of Representatives of the General Court of Massachusetts favors the proposal of this amendment to the States by Congress, and respectfully urges upon the Senators from Massachusetts in the Congress of the United States the favorable consideration of the resolution now pending, that the people shall have secured to them the right to vote directly for United States Senators.

Voted, That a copy of this vote be sent by the clerk to each of the Senators from Massachusetts in the Congress of the United States and to the President of the Senate of the United States.

JAMES W. KIMBALL, *Clerk.*

The VICE PRESIDENT presented a petition of the Sunday School of the South Congregational Church, of New Britain, Conn., and a petition of the congregation of the Church of the Brethren of Beaver Creek, Md., praying for the enactment of legislation to restrict the sale of and traffic in opium, which was referred to the Committee on Foreign Relations.

Mr. GALLINGER presented a memorial of White Mountain Grange, No. 50, Patrons of Husbandry, of Littleton, N. H., remonstrating against the proposed reciprocal trade agreement between the United States and Canada, which was referred to the Committee on Finance.

He also presented a petition of the General Conference of Congregational Churches of New Hampshire, praying for the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

He also presented a memorial of Local Division No. 3, Ancient Order of Hibernians, of Dover, N. H., remonstrating against the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.